

## Assembly Bill No. 1847

### CHAPTER 144

An act to amend Sections 52.5 and 1587 of the Civil Code, to amend Sections 328, 352, 372, 373, and 1447 of the Code of Civil Procedure, to amend Section 56850 of the Education Code, to amend Sections 2310, 2312, 2313, 2332, and 7901 of the Family Code, to amend Sections 854.2, 1001, 6276.30, 6276.34, 6276.38, 7579.1, 12428, 26640, 26643, and 26749 of, and to repeal Section 203 of, the Government Code, to amend Sections 1250, 1250.2, 1267.8, 1275.5, 1276.5, 1276.9, 1505.5, 1566.3, 1568.0831, 1569.5, 1569.85, 11812.6, 11834.23, 13113, 36130, 50680, 50684, 50685.5, 50688, and 50689 of the Health and Safety Code, to amend Section 10235.8 of the Insurance Code, to amend Section 4662 of the Labor Code, to amend Sections 2672 and 11151 of the Penal Code, to amend Sections 9201 and 19201 of the Probate Code, to amend Section 734 of the Public Utilities Code, to amend Sections 5301, 18014, 18395, and 35466 of the Streets and Highways Code, to amend Section 26306 of the Water Code, and to amend Sections 1752.6, 1756, 4011, 4016, 4021, 4022, 4042, 4080, 4109.5, 4119, 4120, 4121, 4132, 4136, 4200, 4202.5, 4240, 4241, 4243, 4244, 4304, 4308, 4320, 4410, 4417, 4440, 4681.1, 5002, 5004, 5004.5, 5115, 5116, 5250, 5301, 5304, 5326.5, 5340, 5350, 5400, 5500, 5511, 5585.10, 5600, 5653, 5696, 5699, 5714, 5802, 6000, 6002, 6002.10, 6250, 6254, 6551, 6825, 7100, 7200, 7201, 7226, 7227, 7275, 7276, 7277, 7278, 7280, 7283, 7284, 7294, 7300, 7329, 7352, 7354, 7357, 7362, 7500, and 7501.5 of, and to repeal Section 5366 of, the Welfare and Institutions Code, relating to mental health disorders.

[Approved by Governor July 18, 2014. Filed with  
Secretary of State July 18, 2014.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1847, Chesbro. Mental health disorders: language.

(1) Existing law refers to mentally disordered persons, or mentally defective persons in provisions relating to, among other things, education, social services, and civil law. Existing law also refers to the insane in provisions relating to, among other things, family law and social services.

This bill would revise these provisions to instead refer to persons with a mental health disorder or persons who lack legal capacity to make decisions, respectively. The bill would make related technical changes.

(2) Under the California Public Records Act, except for exempt records, every state or local agency, upon request, is required to make records available to any person upon payment of fees to cover costs. Existing law specifies records that are exempt from the Public Records Act based on above provisions.

The bill would make conforming changes to the Public Records Act based on the above provisions.

(3) The Irrigation District Law provides for the formation of irrigation districts with prescribed powers, including the power to levy an annual assessment upon the land in the district and to obtain a collector's deed against the property if the assessment is not paid. Existing law requires an action proceeding, defense, answer, or cross-complaint based on the invalidity or irregularity of the collector's deed to begin within one year after the recordation of the deed, unless otherwise specified, including when the owner of the land was, at the time of sale, a minor or insane person in which case the statute of limitations begins to run when the disability is removed.

This bill would make a technical change to clarify that the statute of limitations is tolled if the owner is a minor or lacks mental capacity.

*The people of the State of California do enact as follows:*

SECTION 1. Section 52.5 of the Civil Code is amended to read:

52.5. (a) A victim of human trafficking, as defined in Section 236.1 of the Penal Code, may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney's fees and costs.

(b) In addition to the remedies specified herein, in an action under subdivision (a), the plaintiff may be awarded up to three times his or her actual damages or ten thousand dollars (\$10,000), whichever is greater. In addition, punitive damages may also be awarded upon proof of the defendant's malice, oppression, fraud, or duress in committing the act of human trafficking.

(c) An action brought pursuant to this section shall be commenced within five years of the date on which the trafficking victim was freed from the trafficking situation or, if the victim was a minor when the act of human trafficking against the victim occurred, within eight years after the date the plaintiff attains the age of majority.

(d) If a person entitled to sue is under a disability at the time the cause of action accrues, so that it is impossible or impracticable for him or her to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability will toll the running of the statute of limitation for this action.

(1) Disability includes being a minor, lacking legal capacity to make decisions, imprisonment, or other incapacity or incompetence.

(2) The statute of limitations shall not run against a plaintiff who is a minor or who lacks the legal competence to make decisions simply because a guardian ad litem has been appointed. A guardian ad litem's failure to bring a plaintiff's action within the applicable limitation period will not prejudice the plaintiff's right to do so after his or her disability ceases.

(3) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action, or due to threats made by the defendant causing duress upon the plaintiff.

(4) The suspension of the statute of limitations due to disability, lack of knowledge, or estoppel applies to all other related claims arising out of the trafficking situation.

(5) The running of the statute of limitations is postponed during the pendency of criminal proceedings against the victim.

(e) The running of the statute of limitations may be suspended where a person entitled to sue could not have reasonably discovered the cause of action due to circumstances resulting from the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(f) A prevailing plaintiff may also be awarded reasonable attorney's fees and litigation costs including, but not limited to, expert witness fees and expenses as part of the costs.

(g) Restitution paid by the defendant to the victim shall be credited against a judgment, award, or settlement obtained pursuant to this section. A judgment, award, or settlement obtained pursuant to an action under this section shall be subject to the provisions of Section 13963 of the Government Code.

(h) A civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim. As used in this section, a "criminal action" includes investigation and prosecution, and is pending until a final adjudication in the trial court or dismissal.

SEC. 2. Section 1587 of the Civil Code is amended to read:

1587. A proposal is revoked by any of the following:

(a) By the communication of notice of revocation by the proposer to the other party, in the manner prescribed by Sections 1581 and 1583, before his or her acceptance has been communicated to the former.

(b) By the lapse of the time prescribed in the proposal for its acceptance or, if no time is prescribed, the lapse of a reasonable time without communication of the acceptance.

(c) By the failure of the acceptor to fulfill a condition precedent to acceptance.

(d) By the death or legal incapacity to make decisions of the proposer.

SEC. 3. Section 328 of the Code of Civil Procedure is amended to read:

328. If a person entitled to commence an action for the recovery of real property, or for the recovery of the possession thereof, or to make an entry or defense founded on the title to real property, or to rents or services out of the property, is, at the time title first descends or accrues, either under the age of majority or lacking legal capacity to make decisions, the time, not exceeding 20 years, during which the disability continues is not deemed a portion of the time in this chapter limited for the commencement of the action, or the making of the entry or defense, but the action may be

commenced, or entry or defense made, within the period of five years after the disability shall cease, or after the death of the person entitled, who shall die under the disability. The action shall not be commenced, or entry or defense made, after that period.

SEC. 4. Section 352 of the Code of Civil Procedure is amended to read:

352. (a) If a person entitled to bring an action, mentioned in Chapter 3 (commencing with Section 335) is, at the time the cause of action accrued either under the age of majority or lacking the legal capacity to make decisions, the time of the disability is not part of the time limited for the commencement of the action.

(b) This section shall not apply to an action against a public entity or public employee upon a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) or Chapter 2 (commencing with Section 910) of Part 3, or Chapter 3 (commencing with Section 950) of Part 4, of Division 3.6 of Title 1 of the Government Code. This subdivision shall not apply to any claim presented to a public entity prior to January 1, 1971.

SEC. 5. Section 372 of the Code of Civil Procedure is amended to read:

372. (a) (1) When a minor, a person who lacks legal capacity to make decisions, or a person for whom a conservator has been appointed is a party, that person shall appear either by a guardian or conservator of the estate or by a guardian ad litem appointed by the court in which the action or proceeding is pending, or by a judge thereof, in each case. A guardian ad litem may be appointed in any case when it is deemed by the court in which the action or proceeding is prosecuted, or by a judge thereof, expedient to appoint a guardian ad litem to represent the minor, person lacking legal capacity to make decisions, or person for whom a conservator has been appointed, notwithstanding that the person may have a guardian or conservator of the estate and may have appeared by the guardian or conservator of the estate. The guardian or conservator of the estate or guardian ad litem so appearing for any minor, person who lacks legal capacity to make decisions, or person for whom a conservator has been appointed shall have power, with the approval of the court in which the action or proceeding is pending, to compromise the same, to agree to the order or judgment to be entered therein for or against the ward or conservatee, and to satisfy any judgment or order in favor of the ward or conservatee or release or discharge any claim of the ward or conservatee pursuant to that compromise. Money or other property to be paid or delivered pursuant to the order or judgment for the benefit of a minor, person lacking legal capacity to make decisions, or person for whom a conservator has been appointed shall be paid and delivered as provided in Chapter 4 (commencing with Section 3600) of Part 8 of Division 4 of the Probate Code.

(2) Where reference is made in this section to “a person lacking legal competence to make decisions,” the reference shall be deemed to include “a person for whom a conservator may be appointed.”

(3) Nothing in this section, or in any other provision of this code, the Civil Code, the Family Code, or the Probate Code is intended by the Legislature to prohibit a minor from exercising an intelligent and knowing waiver of his or her constitutional rights in a proceeding under the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(b) (1) Notwithstanding subdivision (a), a minor 12 years of age or older may appear in court without a guardian, counsel, or guardian ad litem, for the purpose of requesting or opposing a request for any of the following:

(A) An injunction or temporary restraining order or both to prohibit harassment pursuant to Section 527.6.

(B) An injunction or temporary restraining order or both against violence or a credible threat of violence in the workplace pursuant to Section 527.8.

(C) A protective order pursuant to Division 10 (commencing with Section 6200) of the Family Code.

(D) A protective order pursuant to Sections 7710 and 7720 of the Family Code.

The court may, either upon motion or in its own discretion, and after considering reasonable objections by the minor to the appointment of specific individuals, appoint a guardian ad litem to assist the minor in obtaining or opposing the order, provided that the appointment of the guardian ad litem does not delay the issuance or denial of the order being sought. In making the determination concerning the appointment of a particular guardian ad litem, the court shall consider whether the minor and the guardian have divergent interests.

(2) For purposes of this subdivision only, upon the issuance of an order pursuant to paragraph (1), if the minor initially appeared in court seeking an order without a guardian or guardian ad litem, and if the minor is residing with a parent or guardian, the court shall send a copy of the order to at least one parent or guardian designated by the minor, unless, in the discretion of the court, notification of a parent or guardian would be contrary to the best interest of the minor. The court is not required to send the order to more than one parent or guardian.

(3) The Judicial Council shall adopt forms by July 1, 1999, to facilitate the appointment of a guardian ad litem pursuant to this subdivision.

(c) (1) Notwithstanding subdivision (a), a minor may appear in court without a guardian ad litem in the following proceedings if the minor is a parent of the child who is the subject of the proceedings:

(A) Family court proceedings pursuant to Part 3 (commencing with Section 7600) of Division 12 of the Family Code.

(B) Dependency proceedings pursuant to Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(C) Guardianship proceedings for a minor child pursuant to Part 2 (commencing with Section 1500) of Division 4 of the Probate Code.

(D) Any other proceedings concerning child custody, visitation, or support.

(2) If the court finds that the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case, the court shall, upon its own motion or upon a motion by the minor parent or the minor parent's counsel, appoint a guardian ad litem.

SEC. 6. Section 373 of the Code of Civil Procedure is amended to read:

373. When a guardian ad litem is appointed, he or she shall be appointed as follows:

(a) If the minor is the plaintiff the appointment must be made before the summons is issued, upon the application of the minor, if the minor is 14 years of age or older, or, if under that age, upon the application of a relative or friend of the minor.

(b) If the minor is the defendant, upon the application of the minor, if the minor is 14 years of age or older, and the minor applies within 10 days after the service of the summons, or, if under that age or if the minor neglects to apply, then upon the application of a relative or friend of the minor, or of any other party to the action, or by the court on its own motion.

(c) If the person lacking legal competence to make decisions is a party to an action or proceeding, upon the application of a relative or friend of the person lacking legal competence to make decisions, or of any other party to the action or proceeding, or by the court on its own motion.

SEC. 7. Section 1447 of the Code of Civil Procedure is amended to read:

1447. Notwithstanding any other law, all unclaimed money or other property belonging to a person who dies while confined in a state institution subject to the jurisdiction of the State Department of State Hospitals, which is paid or delivered to the state or an officer or employee thereof under the provisions of Section 166 of the Welfare and Institutions Code, or under any amendment thereof adopted after the effective date of Chapter 1708 of the Statutes of 1951 shall be deemed to be paid or delivered for deposit in the State Treasury under the provisions of this article, and shall be transmitted, received, accounted for, and disposed of, as provided in this part.

SEC. 8. Section 56850 of the Education Code is amended to read:

56850. (a) The purpose of the Legislature, in enacting this chapter, is to recognize that individuals with exceptional needs of mandated schoolage, residing in California's state hospitals and developmental centers, are entitled to, under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), the same access to educational programs as is provided for individuals with exceptional needs residing in our communities.

(b) It is the intent of the Legislature to ensure that services shall be provided in the community near the individual state hospitals to the maximum extent appropriate, and in the least restrictive environment.

(c) It is the further intent of the Legislature to ensure equal access to the educational process and to a full continuum of educational services for all individuals, regardless of their physical residence.

(d) It is the further intent of the Legislature that educational services designated for state hospital residents not eligible for services mandated by

the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) shall not be reduced or limited in any manner as a result of the enactment of this chapter.

(e) It is the further intent of the Legislature that any cooperative agreements to provide educational services for state hospitals shall seek to maximize federal financial participation in funding these services.

SEC. 9. Section 2310 of the Family Code is amended to read:

2310. Dissolution of the marriage or legal separation of the parties may be based on either of the following grounds, which shall be pleaded generally:

(a) Irreconcilable differences, which have caused the irremediable breakdown of the marriage.

(b) Permanent legal incapacity to make decisions.

SEC. 10. Section 2312 of the Family Code is amended to read:

2312. A marriage may be dissolved on the grounds of permanent legal incapacity to make decisions only upon proof, including competent medical or psychiatric testimony, that the spouse was at the time the petition was filed, and remains, permanently lacking the legal capacity to make decisions.

SEC. 11. Section 2313 of the Family Code is amended to read:

2313. No dissolution of marriage granted on the ground of permanent legal incapacity to make decisions relieves a spouse from any obligation imposed by law as a result of the marriage for the support of the spouse who lacks legal capacity to make decisions, and the court may make an order for support, or require a bond therefor, as the circumstances require.

SEC. 12. Section 2332 of the Family Code is amended to read:

2332. (a) If the petition for dissolution of the marriage is based on the ground of permanent legal incapacity to make decisions and the spouse who lacks legal capacity to make decisions has a guardian or conservator, other than the spouse filing the petition, the petition and summons shall be served upon the spouse and the guardian or conservator. The guardian or conservator shall defend and protect the interests of the spouse who lacks legal capacity to make decisions.

(b) If the spouse who lacks legal capacity to make decisions has no guardian or conservator, or if the spouse filing the petition is the guardian or conservator, the court shall appoint a guardian ad litem, who may be the district attorney or the county counsel, if any, to defend and protect the interests of the spouse who lacks legal capacity to make decisions. If a district attorney or county counsel is appointed guardian ad litem pursuant to this subdivision, the successor in the office of district attorney or county counsel, as the case may be, succeeds as guardian ad litem, without further action by the court or parties.

(c) “Guardian or conservator” as used in this section means:

(1) With respect to the issue of the dissolution of the marriage relationship, the guardian or conservator of the person.

(2) With respect to support and property division issues, the guardian or conservator of the estate.

SEC. 13. Section 7901 of the Family Code is amended to read:

7901. The provisions of the interstate compact referred to in Section 7900 are as follows:

## INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

### Article 1. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

### Article 2. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(b) "Sending agency" means a party state, or officer or employee thereof; subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for persons with developmental disabilities or mental health disorders or any institution primarily educational in character, and any hospital or other medical facility.

### Article 3. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Before sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date, and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.
- (4) A full statement of the reasons for the proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

### Article 4. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. A violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any punishment or penalty, any violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

## Article 5. Continuing Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. That jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of that case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) of this article.

## Article 6. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, before being sent to the other party jurisdiction for institutional care and the court finds that both of the following exist:

(a) Equivalent facilities for the child are not available in the sending agency's jurisdiction.

(b) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

## Article 7. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his or her jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Article 8. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his or her parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his or her guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

Article 9. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any of these jurisdictions when that jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of the statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made before the effective date of withdrawal.

Article 10. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SEC. 14. Section 203 of the Government Code is repealed.

SEC. 15. Section 854.2 of the Government Code is amended to read:

854.2. As used in this chapter, "mental institution" means a state hospital for the care and treatment of persons with mental health disorders or intellectual disabilities, the California Rehabilitation Center referred to in Section 3300 of the Welfare and Institutions Code, or a county psychiatric hospital.

SEC. 16. Section 1001 of the Government Code is amended to read:

1001. The civil executive officers are: a Governor; a private secretary and an executive secretary for the Governor; a Lieutenant Governor; a Secretary of State; a Deputy Secretary of State; a Keeper of Archives of State for Secretary of State; a bookkeeper for the Secretary of State; three recording clerks for the Secretary of State; a Controller; a Deputy Controller; a bookkeeper for the Controller; five clerks for the Controller; a Treasurer; a Deputy Treasurer; a bookkeeper for the Treasurer; a clerk for six months in each year for the Treasurer; an Attorney General and all assistant and deputy attorneys general; a Superintendent of Public Instruction; one clerk for the Superintendent of Public Instruction; an Insurance Commissioner; a deputy for the Insurance Commissioner; four port wardens for the Port of San Francisco; a port warden for each port of entry except San Francisco; five State Harbor Commissioners for San Francisco Harbor; six pilots for each harbor where there is no board of pilot commissioners; three members of the Board of Pilot Commissioners for Humboldt Bay and Bar; 13 members of the State Board of Agriculture; four members of the State Board of Equalization; a clerk of the Board of Equalization; three members of the State Board of Education; a librarian for the Supreme Court Library and the chief deputy clerk and the deputy clerks of the Supreme Court; five directors for the state hospital at Napa; the manager, assistant manager, chief counsel and division chiefs, State Compensation Insurance Fund; the head of each department and all chiefs of divisions, deputies and secretaries of a department; such other officers as fill offices created by or under the authority of charters or laws for the government of counties and cities or of the health, school, election, road, or revenue laws.

SEC. 17. Section 6276.30 of the Government Code is amended to read:

6276.30. Managed care health plans, confidentiality of proprietary information, Section 14091.3, Welfare and Institutions Code.

Managed Risk Medical Insurance Board, negotiations with entities contracting or seeking to contract with the board, subdivisions (v) and (y) of Section 6254.

Mandated blood testing and confidentiality to protect public health, prohibition against compelling identification of test subjects, Section 120975, Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, unauthorized disclosures of identification of test subjects, Sections 1603.1, 1603.3, and 121022, Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, disclosure to patient's spouse, sexual partner, needle sharer, or county health officer, Section 121015, Health and Safety Code.

Manufactured home, mobilehome, floating home, confidentiality of home address of registered owner, Section 18081, Health and Safety Code.

Marital confidential communications, Sections 980, 981, 982, 983, 984, 985, 986, and 987, Evidence Code.

Market reports, confidential, subdivision (e), Section 6254.

Marketing of commodities, confidentiality of financial information, Section 58781, Food and Agricultural Code.

Marketing orders, confidentiality of processors' or distributors' information, Section 59202, Food and Agricultural Code.

Marriage, confidential, certificate, Section 511, Family Code.

Medi-Cal Benefits Program, confidentiality of information, Section 14100.2, Welfare and Institutions Code.

Medi-Cal Benefits Program, Request of Department for Records of Information, Section 14124.89, Welfare and Institutions Code.

Medi-Cal Fraud Bureau, confidentiality of complaints, Section 12528.

Medi-Cal managed care program, exemption from disclosure for financial and utilization data submitted by Medi-Cal managed care health plans to establish rates, Section 14301.1, Welfare and Institutions Code.

Medi-Cal program, exemption from disclosure for best price contracts between the State Department of Health Care Services and drug manufacturers, Section 14105.33, Welfare and Institutions Code.

Medical information, disclosure by provider unless prohibited by patient in writing, Section 56.16, Civil Code.

Medical information, types of information not subject to patient prohibition of disclosure, Section 56.30, Civil Code.

Medical and other hospital committees and peer review bodies, confidentiality of records, Section 1157, Evidence Code.

Medical or dental licensee, action for revocation or suspension due to illness, report, confidentiality of, Section 828, Business and Professions Code.

Medical or dental licensee, disciplinary action, denial or termination of staff privileges, report, confidentiality of, Sections 805, 805.1, and 805.5, Business and Professions Code.

Meetings of state agencies, disclosure of agenda, Section 11125.1.

Milk marketing, confidentiality of records, Section 61443, Food and Agricultural Code.

Milk product certification, confidentiality of, Section 62121, Food and Agricultural Code.

Milk, market milk, confidential records and reports, Section 62243, Food and Agricultural Code.

Milk product registration, confidentiality of information, Section 38946, Food and Agricultural Code.

Milk equalization pool plan, confidentiality of producers' voting, Section 62716, Food and Agricultural Code.

Mining report, confidentiality of report containing information relating to mineral production, reserves, or rate of depletion of mining operation, Section 2207, Public Resources Code.

Minor, criminal proceeding testimony closed to public, Section 859.1, Penal Code.

Minors, material depicting sexual conduct, records of suppliers to be kept and made available to law enforcement, Section 1309.5, Labor Code.

Misdemeanor and felony reports by police chiefs and sheriffs to Department of Justice, confidentiality of, Sections 11107 and 11107.5, Penal Code.

Monetary instrument transaction records, confidentiality of, Section 14167, Penal Code.

Missing persons' information, disclosure of, Sections 14201 and 14203, Penal Code.

Morbidity and mortality studies, confidentiality of records, Section 100330, Health and Safety Code.

Motor vehicle accident reports, disclosure, Sections 16005, 20012, and 20014, Vehicle Code.

Motor vehicles, department of, public records, exceptions, Sections 1808 to 1808.7, inclusive, Vehicle Code.

Motor vehicle insurance fraud reporting, confidentiality of information acquired, Section 1874.3, Insurance Code.

Motor vehicle liability insurer, data reported to Department of Insurance, confidentiality of, Section 11628, Insurance Code.

Multijurisdictional drug law enforcement agency, closed sessions to discuss criminal investigation, Section 54957.8.

SEC. 18. Section 6276.34 of the Government Code is amended to read: 6276.34. Parole revocation proceedings, confidentiality of information in reports, Section 3063.5, Penal Code.

Passenger fishing boat licenses, records, Section 7923, Fish and Game Code.

Paternity, acknowledgement, confidentiality of records, Section 102760, Health and Safety Code.

Patient-physician confidential communication, Sections 992 and 994, Evidence Code.

Patient records, confidentiality of, Section 123135, Health and Safety Code.

Payment instrument licensee records, inspection of, Section 33206, Financial Code.

Payroll records, confidentiality of, Section 1776, Labor Code.

Peace officer personnel records, confidentiality of, Sections 832.7 and 832.8, Penal Code.

Penitential communication between penitent and clergy, Sections 1032 and 1033, Evidence Code.

Personal Care Services Program, exemption from disclosure for information regarding persons paid by the state to provide personal care services, Section 6253.2.

Personal Income Tax, disclosure of information, Article 2 (commencing with Section 19542), Chapter 7, Part 10.2, Division 2, Revenue and Taxation Code.

Personal information, Information Practices Act, prohibitions against disclosure by state agencies, Sections 1798.24 and 1798.75, Civil Code.

Personal information, subpoena of records containing, Section 1985.4, Code of Civil Procedure.

Personal representative, confidentiality of personal representative's birth date and driver's license number, Section 8404, Probate Code.

Personnel Administration, Department of, confidentiality of pay data furnished to, Section 19826.5.

Persons formerly classified as mentally abnormal sex offenders committed to a state hospital, confidentiality of records, Section 4135, Welfare and Institutions Code.

Persons with mental health disorders, court-ordered evaluation, confidentiality of reports, Section 5202, Welfare and Institutions Code.

Persons with mental health disorders, confidentiality of written consent to detainment, Section 5326.4, Welfare and Institutions Code.

Persons with mental health disorders voluntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4, 5328.8, and 5328.9, Welfare and Institutions Code.

Persons with mental health disorders, weapons restrictions, confidentiality of information about, Section 8103, Welfare and Institutions Code.

Petition signatures, Section 18650, Elections Code.

Petroleum supply and pricing, confidential information, Sections 25364 and 25366, Public Resources Code.

Pharmacist, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 4372, Business and Professions Code.

Physical therapist or assistant, records of dangerous drug or alcohol diversion and rehabilitation, confidentiality of, Section 2667, Business and Professions Code.

Physical or mental condition or conviction of controlled substance offense, records in Department of Motor Vehicles, confidentiality of, Section 1808.5, Vehicle Code.

Physician and surgeon, rehabilitation and diversion records, confidentiality of, Section 2355, Business and Professions Code.

Physician assistant, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 3534.7, Business and Professions Code.

Physician competency examination, confidentiality of reports, Section 2294, Business and Professions Code.

Physicians and surgeons, confidentiality of reports of patients with a lapse of consciousness disorder, Section 103900, Health and Safety Code.

Physician Services Account, confidentiality of patient names in claims, Section 16956, Welfare and Institutions Code.

Pilots, confidentiality of personal information, Section 1157.1, Harbors and Navigation Code.

Pollution Control Financing Authority, financial data submitted to, subdivision (o), Section 6254.

Postmortem or autopsy photos, Section 129, Code of Civil Procedure.

SEC. 19. Section 6276.38 of the Government Code is amended to read: 6276.38. Radioactive materials, dissemination of information about transportation of, Section 33002, Vehicle Code.

Railroad infrastructure protection program, disclosure not required for risk assessments filed with the Public Utilities Commission, the Director

of Emergency Services, or the Office of Emergency Services, Section 6254.23.

Real estate broker, annual report to Bureau of Real Estate of financial information, confidentiality of, Section 10232.2, Business and Professions Code.

Real property, acquisition by state or local government, information relating to feasibility, subdivision (h), Section 6254.

Real property, change in ownership statement, confidentiality of, Section 27280.

Records described in Section 1620 of the Penal Code.

Records of contract purchasers, inspection by public prohibited, Section 85, Military and Veterans Code.

Records of persons committed to a state hospital pursuant to Section 4135 of the Welfare and Institutions Code.

Registered public obligations, inspection of records of security interests in, Section 5060.

Registration of exempt vehicles, nondisclosure of name of person involved in alleged violation, Section 5003, Vehicle Code.

Rehabilitation, Department of, confidential information, Section 19016, Welfare and Institutions Code.

Reinsurance intermediary-broker license information, confidentiality of, Section 1781.3, Insurance Code.

Relocation assistance, confidential records submitted to a public entity by a business or farm operation, Section 7262.

Rent control ordinance, confidentiality of information concerning accommodations sought to be withdrawn from, Section 7060.4.

Report of probation officer, inspection, copies, Section 1203.05, Penal Code.

Repossession agency licensee application, confidentiality of information, Sections 7503, 7504, and 7506.5, Business and Professions Code.

Reproductive health facilities, disclosure not required for personal information regarding employees, volunteers, board members, owners, partners, officers, and contractors of a reproductive health services facility who have provided requisite notification, Section 6254.18.

Residence address in any record of Department of Housing and Community Development, confidentiality of, Section 6254.1.

Residence address in any record of Department of Motor Vehicles, confidentiality of, Section 6254.1, Government Code, and Section 1808.21, Vehicle Code.

Residence and mailing addresses in records of Department of Motor Vehicles, confidentiality of, Section 1810.7, Vehicle Code.

Residential care facilities, confidentiality of resident information, Section 1568.08, Health and Safety Code.

Residential care facilities for the elderly, confidentiality of client information, Section 1569.315, Health and Safety Code.

Respiratory care practitioner, professional competency examination reports, confidentiality of, Section 3756, Business and Professions Code.

Restraint of trade, civil action by district attorney, confidential memorandum, Section 16750, Business and Professions Code.

Reward by Governor for information leading to arrest and conviction, confidentiality of person supplying information, Section 1547, Penal Code.

Safe surrender site, confidentiality of information pertaining to a parent or individual surrendering a child, Section 1255.7, Health and Safety Code.

SEC. 20. Section 7579.1 of the Government Code is amended to read:

7579.1. (a) Prior to the discharge of any disabled child or youth who has an active individualized education program from a public hospital, proprietary hospital, or residential medical facility pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2 of Part 30 of the Education Code, a licensed children's institution or foster family home pursuant to Article 5 (commencing with Section 56155) of Chapter 2 of Part 30 of the Education Code, or a state hospital or developmental center, the following shall occur:

(1) The operator of the hospital or medical facility, or the agency that placed the child in the licensed children's institution or foster family home, shall, at least 10 days prior to the discharge of a disabled child or youth, notify in writing the local educational agency in which the special education program for the child is being provided, and the receiving special education local plan area where the child is being transferred, of the impending discharge.

(2) The operator or placing agency, as part of the written notification, shall provide the receiving special education local plan area with a copy of the child's individualized education program, the identity of the individual responsible for representing the interests of the child for educational and related services for the impending placement, and other relevant information about the child that will be useful in implementing the child's individualized education program in the receiving special education local plan area.

(b) Once the disabled child or youth has been discharged, it shall be the responsibility of the receiving local educational agency to ensure that the disabled child or youth receives an appropriate educational placement that commences without delay upon his or her discharge from the hospital, institution, facility, or foster family home in accordance with Section 56325 of the Education Code. Responsibility for the provision of special education rests with the school district of residence of the parent or guardian of the child unless the child is placed in another hospital, institution, facility, or foster family home in which case the responsibility of special education rests with the school district in which the child resides pursuant to Sections 56156.4, 56156.6, and 56167 of the Education Code.

(c) Special education local plan area directors shall document instances where the procedures in subdivision (a) are not being adhered to and report these instances to the Superintendent of Public Instruction.

SEC. 21. Section 12428 of the Government Code is amended to read:

12428. In the event either the Governor or the Legislature should obtain federal approval to transfer programs receiving federal support for persons with an intellectual disability or a mental health disorder from one state

department to another state department under the provisions of Public Law 90-577 (Intergovernmental Cooperation Act of 1968), the Controller shall, upon approval of the Director of Finance, transfer to a department designated by the Governor the parts of the appropriation of the other departments that are related to programs for persons with an intellectual disability or a mental health disorder, provided further, that the transfer shall enable the state to make maximum utilization of available state and federal funds.

SEC. 22. Section 26640 of the Government Code is amended to read:

26640. The sheriff shall take charge of, safely keep, and keep a correct account of, all money and valuables found on each prisoner when delivered at the county jail. Except when otherwise ordered by a court of competent jurisdiction, the sheriff shall pay such money or sums therefrom and deliver such valuables or portions thereof as the prisoner directs and shall pay and deliver all the remainder of his money and valuables to the prisoner or to his order upon his release from the jail or to his legal representative in case of his death or legal incapacity to make decisions.

SEC. 23. Section 26643 of the Government Code is amended to read:

26643. When any prisoner dies or loses the legal capacity to make decisions, the sheriff shall make diligent effort to communicate the fact to friends or relatives of the prisoner, together with information on the state of the prisoner's account.

SEC. 24. Section 26749 of the Government Code is amended to read:

26749. The sheriff shall receive expenses necessarily incurred in conveying persons to and from the state hospitals and in conveying persons to and from the state prisons or other state institutions, or to other destinations for the purpose of deportation to other states, or in advancing actual traveling expenses to any person committed to a state institution who is permitted to report to an institution without escort, which expenses shall be allowed as provided by Chapter 6 (commencing with Section 4750) of Title 5 of Part 3 of the Penal Code for cases subject to that chapter, and, otherwise, by the California Victim Compensation and Government Claims Board and paid by the state.

SEC. 25. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, "health facility" means a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained

and operated on separate premises as provided in Section 1250.8. A general acute care hospital that exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital that, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital. The general acute care hospital operated by the State Department of Developmental Services at Agnews Developmental Center may, until June 30, 2007, provide surgery and anesthesia services through a contract or agreement with another acute care hospital. Notwithstanding the requirements of this subdivision, a general acute care hospital operated by the Department of Corrections and Rehabilitation or the Department of Veterans Affairs may provide surgery and anesthesia services during normal weekday working hours, and not provide these services during other hours of the weekday or on weekends or holidays, if the general acute care hospital otherwise meets the requirements of this section.

A “general acute care hospital” includes a “rural general acute care hospital.” However, a “rural general acute care hospital” shall not be required by the department to provide surgery and anesthesia services. A “rural general acute care hospital” shall meet either of the following conditions:

(1) The hospital meets criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(2) The hospital meets the criteria for designation within peer group five or seven, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and has no more than 76 acute care beds and is located in a census dwelling place of 15,000 or less population according to the 1980 federal census.

(b) “Acute psychiatric hospital” means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for persons with mental health disorders or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) (1) “Skilled nursing facility” means a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(2) “Skilled nursing facility” includes a “small house skilled nursing facility (SHSNF),” as defined in Section 1323.5.

(d) “Intermediate care facility” means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring

need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) “Intermediate care facility/developmentally disabled habilitative” means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer persons with developmental disabilities who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

(f) “Special hospital” means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) “Intermediate care facility/developmentally disabled” means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to persons with developmental disabilities whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) “Intermediate care facility/developmentally disabled-nursing” means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons with developmental disabilities or who demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i) (1) “Congregate living health facility” means a residential home with a capacity, except as provided in paragraph (4), of no more than 12 beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, recreational, and at least one type of service specified in paragraph (2). The primary need of congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities.

(2) Congregate living health facilities shall provide one of the following services:

(A) Services for persons who are mentally alert, persons with physical disabilities, who may be ventilator dependent.

(B) Services for persons who have a diagnosis of terminal illness, a diagnosis of a life-threatening illness, or both. Terminal illness means the individual has a life expectancy of six months or less as stated in writing by his or her attending physician and surgeon. A “life-threatening illness” means the individual has an illness that can lead to a possibility of a termination of life within five years or less as stated in writing by his or her attending physician and surgeon.

(C) Services for persons who are catastrophically and severely disabled. A person who is catastrophically and severely disabled means a person whose origin of disability was acquired through trauma or nondegenerative neurologic illness, for whom it has been determined that active rehabilitation would be beneficial and to whom these services are being provided. Services offered by a congregate living health facility to a person who is catastrophically disabled shall include, but not be limited to, speech, physical, and occupational therapy.

(3) A congregate living health facility license shall specify which of the types of persons described in paragraph (2) to whom a facility is licensed to provide services.

(4) (A) A facility operated by a city and county for the purposes of delivering services under this section may have a capacity of 59 beds.

(B) A congregate living health facility not operated by a city and county servicing persons who are terminally ill, persons who have been diagnosed with a life-threatening illness, or both, that is located in a county with a population of 500,000 or more persons, or located in a county of the 16th class pursuant to Section 28020 of the Government Code, may have not more than 25 beds for the purpose of serving persons who are terminally ill.

(C) A congregate living health facility not operated by a city and county serving persons who are catastrophically and severely disabled, as defined in subparagraph (C) of paragraph (2) that is located in a county of 500,000 or more persons may have not more than 12 beds for the purpose of serving persons who are catastrophically and severely disabled.

(5) A congregate living health facility shall have a noninstitutional, homelike environment.

(j) (1) “Correctional treatment center” means a health facility operated by the Department of Corrections and Rehabilitation, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or a county, city, or city and county law enforcement agency that, as determined by the department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a law enforcement facility that houses inmates or wards who may be receiving outpatient services and are housed separately for reasons of improved access to health care, security, and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the Department of Corrections and Rehabilitation from obtaining a correctional treatment center license at these sites.

(k) "Nursing facility" means a health facility licensed pursuant to this chapter that is certified to participate as a provider of care either as a skilled nursing facility in the federal Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) or as a nursing facility in the federal Medicaid Program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), or as both.

(l) Regulations defining a correctional treatment center described in subdivision (j) that is operated by a county, city, or city and county, the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall not become effective prior to, or if effective, shall be inoperative until January 1, 1996, and until that time these correctional facilities are exempt from any licensing requirements.

(m) "Intermediate care facility/developmentally disabled-continuous nursing (ICF/DD-CN)" means a homelike facility with a capacity of four to eight, inclusive, beds that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have continuous needs for skilled nursing care and have been certified by a physician and surgeon as warranting continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated. ICF/DD-CN facilities shall be subject to licensure under this chapter upon adoption of licensing regulations in accordance with Section 1275.3. A facility providing continuous skilled nursing services to persons with developmental disabilities pursuant to Section 14132.20 or 14495.10 of the Welfare and Institutions Code shall apply for licensure under this subdivision within 90 days after the regulations become effective, and may continue to operate pursuant to those sections until its licensure application is either approved or denied.

(n) "Hospice facility" means a health facility licensed pursuant to this chapter with a capacity of no more than 24 beds that provides hospice services. Hospice services include, but are not limited to, routine care, continuous care, inpatient respite care, and inpatient hospice care as defined in subdivision (d) of Section 1339.40, and is operated by a provider of hospice services that is licensed pursuant to Section 1751 and certified as a hospice pursuant to Part 418 of Title 42 of the Code of Federal Regulations.

SEC. 26. Section 1250.2 of the Health and Safety Code is amended to read:

1250.2. (a) (1) As defined in Section 1250, “health facility” includes a “psychiatric health facility,” defined to mean a health facility, licensed by the State Department of Health Care Services, that provides 24-hour inpatient care for people with mental health disorders or other persons described in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code. This care shall include, but not be limited to, the following basic services: psychiatry, clinical psychology, psychiatric nursing, social work, rehabilitation, drug administration, and appropriate food services for those persons whose physical health needs can be met in an affiliated hospital or in outpatient settings.

(2) It is the intent of the Legislature that the psychiatric health facility shall provide a distinct type of service to psychiatric patients in a 24-hour acute inpatient setting. The State Department of Health Care Services shall require regular utilization reviews of admission and discharge criteria and lengths of stay in order to ensure that these patients are moved to less restrictive levels of care as soon as appropriate.

(b) (1) The State Department of Health Care Services may issue a special permit to a psychiatric health facility for it to provide structured outpatient services (commonly referred to as SOPS) consisting of morning, afternoon, or full daytime organized programs, not exceeding 10 hours, for acute daytime care for patients admitted to the facility. This subdivision shall not be construed as requiring a psychiatric health facility to apply for a special permit to provide these alternative levels of care.

(2) The Legislature recognizes that, with access to structured outpatient services, as an alternative to 24-hour inpatient care, certain patients would be provided with effective intervention and less restrictive levels of care. The Legislature further recognizes that, for certain patients, the less restrictive levels of care eliminate the need for inpatient care, enable earlier discharge from inpatient care by providing a continuum of care with effective aftercare services, or reduce or prevent the need for a subsequent readmission to inpatient care.

(c) Any reference in any statute to Section 1250 of the Health and Safety Code shall be deemed and construed to also be a reference to this section.

(d) Notwithstanding any other law, and to the extent consistent with federal law, a psychiatric health facility shall be eligible to participate in the medicare program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.), and the medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), if all of the following conditions are met:

(1) The facility is a licensed facility.

(2) The facility is in compliance with all related statutes and regulations enforced by the State Department of Health Care Services, including regulations contained in Chapter 9 (commencing with Section 77001) of Division 5 of Title 22 of the California Code of Regulations.

(3) The facility meets the definitions and requirements contained in subdivisions (e) and (f) of Section 1861 of the federal Social Security Act (42 U.S.C. Sec. 1395x(e) and (f)), including the approval process specified in Section 1861(e)(7)(B) of the federal Social Security Act (42 U.S.C. Sec. 1395x(e)(7)(B)), which requires that the state agency responsible for licensing hospitals has ensured that the facility meets licensing requirements.

(4) The facility meets the conditions of participation for hospitals pursuant to Part 482 of Title 42 of the Code of Federal Regulations.

SEC. 27. Section 1267.8 of the Health and Safety Code is amended to read:

1267.8. (a) An intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing or a congregate living health facility shall meet the same fire safety standards adopted by the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 that apply to community care facilities, as defined in Section 1502, of similar size and with residents of similar age and ambulatory status. No other state or local regulations relating to fire safety shall apply to these facilities and the requirements specified in this section shall be uniformly enforced by state and local fire authorities.

(b) An intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing or a congregate living health facility shall meet the same seismic safety requirements applied to community care facilities of similar size with residents of similar age and ambulatory status. No additional requirements relating to seismic safety shall apply to such facilities.

(c) Whether or not unrelated persons are living together, an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing which serves six or fewer persons or a congregate living health facility shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance that is related to the residential use of property pursuant to this article.

(d) For the purposes of all local ordinances, an intermediate care facility/developmentally disabled habilitative that serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing that serves six or fewer persons or a congregate living health facility shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or persons with mental health disorders, foster care home, guest home, rest home, community residence, or other similar term that implies that the intermediate care facility/developmentally disabled habilitative or intermediate care facility/developmentally disabled—nursing or a congregate living health facility is a business run for profit or differs in any other way from a single-family residence.

(e) This section does not forbid a city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or

placement of signs of an intermediate care facility/developmentally disabled habilitative that serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing that serves six or fewer persons or a congregate living health facility as long as those restrictions are identical to those applied to other single-family residences.

(f) This section does not forbid the application to an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing or a congregate living health facility of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity, as long as that ordinance does not distinguish intermediate care facility/developmentally disabled habilitative that serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing or a congregate living health facility from other single-family dwellings and that the ordinance does not distinguish residents of the intermediate care facility/developmentally disabled habilitative or intermediate care facility/developmentally disabled—nursing that serves six or fewer persons or a congregate living health facility from persons who reside in other single-family dwellings.

(g) No conditional use permit, zoning variance, or other zoning clearance shall be required of an intermediate care facility/developmentally disabled habilitative that serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing that serves six or fewer persons or a congregate living health facility that is not required of a single-family residence in the same zone.

(h) Use of a single-family dwelling for purposes of an intermediate care facility/developmentally disabled habilitative serving six or fewer persons or an intermediate care facility/developmentally disabled—nursing that serves six or fewer persons or a congregate living health facility shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section supersedes Section 13143 to the extent these provisions are applicable to intermediate care facility/developmentally disabled habilitative providing care for six or fewer residents or an intermediate care facility/developmentally disabled—nursing serving six or fewer persons or a congregate living health facility.

SEC. 28. Section 1275.5 of the Health and Safety Code is amended to read:

1275.5. (a) The regulations relating to the licensing of hospitals, heretofore adopted by the State Department of Public Health pursuant to former Chapter 2 (commencing with Section 1400) of Division 2, and in effect immediately prior to July 1, 1973, shall remain in effect and shall be fully enforceable with respect to any hospital required to be licensed by this chapter, unless and until the regulations are readopted, amended, or repealed by the director.

(b) The regulations relating to private institutions receiving or caring for persons with mental health disorders, persons with developmental

disabilities, and persons who lack legal competence to make decisions heretofore adopted by the Department of Mental Hygiene pursuant to Chapter 1 (commencing with Section 7000) of Division 7 of the Welfare and Institutions Code, and in effect immediately prior to July 1, 1973, shall remain in effect and shall be fully enforceable with respect to any facility, establishment, or institution for the reception and care of persons with mental health disorders, persons with developmental disabilities, and persons who lack legal competence to make decisions required to be licensed by the provisions of this chapter unless and until those regulations are readopted, amended, or repealed by the director.

(c) (1) All regulations relating to the licensing of psychiatric health facilities heretofore adopted by the State Department of Health Services, pursuant to authority now vested in the State Department of Health Care Services by Section 4080 of the Welfare and Institutions Code, and in effect immediately preceding September 20, 1988, shall remain in effect and shall be fully enforceable by the State Department of Health Care Services with respect to any facility or program required to be licensed as a psychiatric health facility, unless and until readopted, amended, or repealed by the Director of Health Care Services.

(2) The State Department of Health Care Services shall succeed to and be vested with all duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to licensing psychiatric health facilities.

SEC. 29. Section 1276.5 of the Health and Safety Code is amended to read:

1276.5. (a) The department shall adopt regulations setting forth the minimum number of equivalent nursing hours per patient required in skilled nursing and intermediate care facilities, subject to the specific requirements of Section 14110.7 of the Welfare and Institutions Code. However, notwithstanding Section 14110.7 or any other law, commencing January 1, 2000, the minimum number of actual nursing hours per patient required in a skilled nursing facility shall be 3.2 hours, except as provided in Section 1276.9.

(b) (1) For the purposes of this section, “nursing hours” means the number of hours of work performed per patient day by aides, nursing assistants, or orderlies plus two times the number of hours worked per patient day by registered nurses and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities providing care for persons with developmental disabilities or mental health disorders by licensed psychiatric technicians who perform direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital, and except that nursing hours for skilled nursing facilities means the actual hours of work, without doubling the hours performed per patient day by registered nurses and licensed vocational nurses.

(2) Concurrent with implementation of the first year of rates established under the Medi-Cal Long Term Care Reimbursement Act of 1990 (Article

3.8 (commencing with Section 14126) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code), for the purposes of this section, “nursing hours” means the number of hours of work performed per patient day by aides, nursing assistants, registered nurses, and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities providing care for persons with developmental disabilities or mental health disorders, by licensed psychiatric technicians who performed direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital.

(c) Notwithstanding Section 1276, the department shall require the utilization of a registered nurse at all times if the department determines that the services of a skilled nursing and intermediate care facility require the utilization of a registered nurse.

(d) (1) Except as otherwise provided by law, the administrator of an intermediate care facility/developmentally disabled, intermediate care facility/developmentally disabled habilitative, or an intermediate care facility/developmentally disabled—nursing shall be either a licensed nursing home administrator or a qualified intellectual disability professional as defined in Section 483.430 of Title 42 of the Code of Federal Regulations.

(2) To qualify as an administrator for an intermediate care facility for the developmentally disabled, a qualified intellectual disability professional shall complete at least six months of administrative training or demonstrate six months of experience in an administrative capacity in a licensed health facility, as defined in Section 1250, excluding those facilities specified in subdivisions (e), (h), and (i).

SEC. 30. Section 1276.9 of the Health and Safety Code is amended to read:

1276.9. (a) A special treatment program service unit distinct part shall have a minimum 2.3 nursing hours per patient per day.

(b) For purposes of this section, “special treatment program service unit distinct part” means an identifiable and physically separate unit of a skilled nursing facility or an entire skilled nursing facility that provides therapeutic programs to an identified population group of persons with mental health disorders.

(c) For purposes of this section, “nursing hours” means the number of hours of work performed per patient day by aides, nursing assistants, or orderlies, plus two times the number of hours worked per patient day by registered nurses and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity), and, in the distinct part of facilities and freestanding facilities providing care for persons with developmental disabilities or mental health disorders, by licensed psychiatric technicians who perform direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital.

(d) A special treatment program service unit distinct part shall also have an overall average weekly staffing level of 3.2 hours per patient per day, calculated without regard to the doubling of nursing hours, as described in paragraph (1) of subdivision (b) of Section 1276.5, for the special treatment program service unit distinct part.

(e) The calculation of the overall staffing levels in these facilities for the special treatment program service unit distinct part shall include staff from all of the following categories:

- (1) Certified nurse assistants.
- (2) Licensed vocational nurses.
- (3) Registered nurses.
- (4) Licensed psychiatric technicians.
- (5) Psychiatrists.
- (6) Psychologists.
- (7) Social workers.
- (8) Program staff who provide rehabilitation, counseling, or other therapeutic services.

SEC. 31. Section 1505.5 of the Health and Safety Code is amended to read:

1505.5. (a) The director shall adopt regulations authorizing residential facilities, as defined in Section 1502, to fill unused capacity on a short-term, time-limited basis to provide temporary respite care for persons who are frail and elderly, adults with functional impairments, and persons with mental health disorders who need 24-hour supervision and who are being cared for by a caretaker or caretakers. The regulations shall address provisions for liability coverage and the level of facility responsibility for routine medical care and medication management, and may require screening of persons to determine the level of care required, a physical history completed by the person's personal physician, and other alternative admission criteria to protect the health and safety of persons applying for respite care. The regulations shall permit these facilities to charge a fee for services provided, which shall include, but not be limited to, supervision, room, leisure activities, and meals.

(b) No facility shall accept persons in need of care beyond the level of care for which that facility is licensed.

SEC. 32. Section 1566.3 of the Health and Safety Code is amended to read:

1566.3. (a) Whether or not unrelated persons are living together, a residential facility that serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property pursuant to this article.

(b) For the purpose of all local ordinances, a residential facility that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or persons with mental health disorders, foster care home, guest home, rest

home, community residence, or other similar term that implies that the residential facility is a business run for profit or differs in any other way from a family dwelling.

(c) This section shall not be construed to prohibit a city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential facility that serves six or fewer persons as long as those restrictions are identical to those applied to other family dwellings of the same type in the same zone.

(d) This section shall not be construed to prohibit the application to a residential care facility of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities that serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of the residential care facilities from persons who reside in other family dwellings of the same type in the same zone. Nothing in this section shall be construed to limit the ability of a local public entity to fully enforce a local ordinance, including, but not limited to, the imposition of fines and other penalties associated with violations of local ordinances covered by this section.

(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility that serves six or fewer persons that is not required of a family dwelling of the same type in the same zone.

(f) Use of a family dwelling for purposes of a residential facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1. 5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent such sections are applicable to residential facilities providing care for six or fewer residents.

(g) For the purposes of this section, “family dwelling,” includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

SEC. 33. Section 1568.0831 of the Health and Safety Code is amended to read:

1568.0831. (a) (1) Whether or not unrelated persons are living together, a residential care facility that serves six or fewer persons shall be considered a residential use of property for the purposes of this chapter. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property pursuant to this chapter.

(2) For the purpose of all local ordinances, a residential care facility that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution, guest home, rest home, community residence, or other similar term that implies that the residential

care facility is a business run for profit or differs in any other way from a family dwelling.

(3) This section shall not be construed to prohibit a city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility that serves six or fewer persons as long as the restrictions are identical to those applied to other family dwellings of the same type in the same zone.

(4) This section shall not be construed to prohibit the application to a residential care facility of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities that serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of residential care facilities from persons who reside in other family dwellings of the same type in the same zone.

(5) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility that serves six or fewer persons that is not required of a family dwelling of the same type in the same zone.

(6) Use of a family dwelling for purposes of a residential care facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities serving six or fewer persons.

(b) No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential care facility because of a failure to comply with local ordinances from which the facilities are exempt under subdivision (a), provided that the applicant otherwise qualifies for the fire clearance, license, permit, or similar authorization.

(c) For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential care facility that serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

(d) Nothing in this chapter shall authorize the imposition of rent regulations or controls for licensed residential care facilities.

(e) Licensed residential care facilities shall not be subject to controls on rent imposed by any state or local agency or other local government or entity.

SEC. 34. Section 1569.5 of the Health and Safety Code is amended to read:

1569.5. (a) The director shall adopt regulations authorizing residential care facilities for the elderly, as defined in Section 1569.2, to fill unused capacity on a short-term, time-limited basis to provide temporary respite care for persons who are frail and elderly, adults who have functional impairments, or persons with mental health disorders who need 24-hour supervision and who are being cared for by a caretaker or caretakers. The

regulations shall address provisions for liability coverage and the level of facility responsibility for routine medical care and medication management, and may require screening of persons to determine the level of care required, a physical history completed by the person's personal physician, and other alternative admission criteria to protect the health and safety of persons applying for respite care. The regulations shall permit these facilities to charge a fee for the services provided, which shall include, but not be limited to, supervision, room, leisure activities, and meals.

(b) No facility shall accept persons in need of care beyond the level of care for which that facility is licensed.

SEC. 35. Section 1569.85 of the Health and Safety Code is amended to read:

1569.85. (a) Whether or not unrelated persons are living together, a residential care facility for the elderly that serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property pursuant to this article.

(b) For the purpose of all local ordinances, a residential care facility for the elderly that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of the aged, guest home, rest home, community residence, or other similar term that implies that the residential care facility for the elderly is a business run for profit or differs in any other way from a family dwelling.

(c) This section shall not be construed to forbid a city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility for the elderly that serves six or fewer persons as long as the restrictions are identical to those applied to other family dwellings of the same type in the same zone.

(d) This section shall not be construed to forbid the application to a residential care facility for the elderly of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities for the elderly that serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of the residential care facilities for the elderly from persons who reside in other family dwellings of the same type in the same zone.

(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility for the elderly that serves six or fewer persons that is not required of a family dwelling of the same type in the same zone.

(f) Use of a family dwelling for purposes of a residential care facility for the elderly serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections

are applicable to residential care facilities for the elderly providing care for six or fewer residents.

(g) For the purposes of this section, “family dwelling,” includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

SEC. 36. Section 11812.6 of the Health and Safety Code is amended to read:

11812.6. In addition to any other services authorized under this chapter, the department shall urge the county to develop within existing resources specific policies and procedures to address the unique treatment problems presented by persons who are chemically dependent and also have a mental health disorder. Priority may be given to developing policies and procedures that relate to the diagnosis and treatment of homeless persons who have mental health disorders and are chemically dependent.

SEC. 37. Section 11834.23 of the Health and Safety Code is amended to read:

11834.23. (a) Whether or not unrelated persons are living together, an alcoholism or drug abuse recovery or treatment facility that serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property pursuant to this article.

(b) For the purpose of all local ordinances, an alcoholism or drug abuse recovery or treatment facility that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or persons with mental health disorders, foster care home, guest home, rest home, community residence, or other similar term that implies that the alcoholism or drug abuse recovery or treatment home is a business run for profit or differs in any other way from a single-family residence.

(c) This section shall not be construed to forbid a city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of an alcoholism or drug abuse recovery or treatment facility that serves six or fewer persons as long as the restrictions are identical to those applied to other single-family residences.

(d) This section shall not be construed to forbid the application to an alcoholism or drug abuse recovery or treatment facility of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity. However, the ordinance shall not distinguish alcoholism or drug abuse recovery or treatment facilities that serve six or fewer persons from other single-family dwellings or distinguish residents of alcoholism or drug abuse recovery or treatment facilities from persons who reside in other single-family dwellings.

(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of an alcoholism or drug abuse recovery or treatment facility that serves six or fewer persons that is not required of a single-family residence in the same zone.

(f) Use of a single-family dwelling for purposes of an alcoholism or drug abuse recovery facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent those sections are applicable to alcoholism or drug abuse recovery or treatment facilities serving six or fewer residents.

SEC. 38. Section 13113 of the Health and Safety Code is amended to read:

13113. (a) Except as otherwise provided in this section, a person, firm, or corporation shall not establish, maintain, or operate a hospital, children's home, children's nursery, or institution, home or institution for the care of people who are elderly, persons with mental health disorders or intellectual disabilities, or nursing or convalescent home, wherein more than six guests or patients are housed or cared for on a 24-hour-per-day basis unless there is installed and maintained in an operable condition in every building, or portion thereof where patients or guests are housed, an automatic sprinkler system approved by the State Fire Marshal.

(b) This section shall not apply to homes or institutions for the 24-hour-per-day care of ambulatory children if all of the following conditions are satisfied:

(1) The buildings, or portions thereof where children are housed, are not more than two stories in height and are constructed and maintained in accordance with regulations adopted by the State Fire Marshal pursuant to Section 13143 and building standards published in the California Building Standards Code.

(2) The buildings, or portions thereof housing more than six children, shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. The system shall be activated by detectors responding to invisible products of combustion other than heat.

(3) The buildings or portions thereof do not house children with mental health disorders or children with intellectual disabilities.

(c) This section shall not apply to any one-story building or structure of an institution or home for the care of the aged providing 24-hour-per-day care if the building or structure is used or intended to be used for the housing of no more than six ambulatory aged persons. However, the buildings or institutions shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. The system shall be activated by detectors responding to products of combustion other than heat.

(d) This section does not apply to occupancies, or any alterations thereto, located in type I construction, as defined by the State Fire Marshal, under construction or in existence on March 4, 1972.

(e) “Under construction,” as used in this section, means that actual work shall have been performed on the construction site and shall not be construed to mean that the hospital, home, nursery, institution, sanitarium, or a portion thereof, is in the planning stage.

SEC. 39. Section 36130 of the Health and Safety Code is amended to read:

36130. The directors of the following departments of state government shall designate or arrange for the designation of local liaison personnel to assist each of the Model Cities programs in the state:

Department of Corrections and Rehabilitation

Department of Education

Department of Health Care Services

Department of Housing and Community Development

Department of Human Resources Development

Department of Industrial Relations

State Department of Public Health

Department of Public Works

Department of Rehabilitation

Department of Social Services

Department of Corrections and Rehabilitation, Division of Juvenile Facilities

SEC. 40. Section 50680 of the Health and Safety Code is amended to read:

50680. (a) The Legislature finds and declares that recent deemphasis of programs of institutional care for persons with developmental and physical disabilities and persons with mental health disorders has resulted in participation by many of those persons in programs of rehabilitation, education, and social services within the community. Because of the outpatient status of persons enrolled in those programs, there is a need to provide housing for them that will aid in accomplishment and maintenance of the objectives of those programs, thereby minimizing the numbers of persons with developmental and physical disabilities and persons with mental health disorders in public institutions and improving the quality of life for those persons. In order to assist in providing the variety of living arrangements required for this purpose, it is necessary that the state cooperate with cities, counties, cities and counties, and nonprofit corporations in obtaining federal housing subsidies therefor.

(b) It is the intent of the Legislature in enacting this chapter to vest in the department authority to obtain federal housing subsidies for housing for persons requiring supportive services, as defined in this part.

SEC. 41. Section 50684 of the Health and Safety Code is amended to read:

50684. As used in this chapter, “persons with a mental health disorder” means a person who is affected by a mental health disorder rendering the

individual eligible to participate in programs of rehabilitation, education, or social services conducted by or on behalf of a public agency.

SEC. 42. Section 50685.5 of the Health and Safety Code is amended to read:

50685.5. As used in this chapter, “persons requiring supportive services” means persons who are eligible to receive housing assistance pursuant to federal law because of financial inability to provide adequate housing for themselves or persons dependent upon them, who are or will be participating in programs of rehabilitation, education, or social services, and who meet any of the following criteria:

(a) The person shall have been determined to have a developmental disability, but not to require institutional care, by the State Department of Developmental Services, a regional center established pursuant to Section 4620 of the Welfare and Institutions Code, or by the designated representative thereof.

(b) The person shall have been determined to have a mental health disorder, but not to require institutional care, by a local director of mental health services, by the State Department of Health Care Services, or by the designated representatives thereof.

(c) The person shall have been determined to have a physical disability by the Department of Rehabilitation or by the designated representatives thereof.

SEC. 43. Section 50688 of the Health and Safety Code is amended to read:

50688. The Legislature finds and declares that proper housing serves as a stabilizing factor and is an important facet of any program designed to rehabilitate persons with mental and physical disabilities and persons who have mental health disorders and that the disruption of continued occupancy in a dwelling could cause a setback in treatment in particular cases. It is, therefore, the intent of the Legislature that persons who have received housing under a program established pursuant to Section 50680 shall be allowed to continue to receive rental housing assistance payments subsidies after termination of participation in a public program of rehabilitation, education, or social services if the persons meet the criteria established by federal regulations governing low-rent housing programs.

SEC. 44. Section 50689 of the Health and Safety Code is amended to read:

50689. (a) It is the intent of the Legislature in enacting this section to provide housing assistance for persons with developmental and physical disabilities and persons with mental health disorders where that assistance is for the purpose of providing a transition from an institutional to an independent setting, and where that assistance is administered in the context of ongoing local programs leading to rehabilitation and independence.

(b) The department shall establish a program for the purpose of housing assistance for persons with developmental and physical disabilities and persons with mental health disorders. The department shall contract with local agencies or nonprofit corporations incorporated pursuant to Part 1

(commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code that provide supportive services for those individuals, where those services are designed to provide a transition to independent living. The local agencies or nonprofit corporation shall ensure that recipients of housing assistance are income qualified under guidelines for programs of the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437(f)), and shall not contract for housing that exceeds those guidelines for fair market rents for the Section 8 program. Public and private agencies participating in the program established pursuant to this section shall be those whose program philosophies and activities conform substantially to the principles of community living under Chapter 12 (commencing with Section 4830) of Division 4.5, community residential treatment under Chapter 5 (commencing with Section 5450) of Part 1 of Division 5, and independent living under Chapter 8 (commencing with Section 19800) of Part 2 of Division 10, of the Welfare and Institutions Code.

(c) A local agency applying to the department for housing assistance payments shall, in its application, explain how the housing assistance payments are part of its ongoing programs to establish independent living for its clientele. The department, in reviewing these applications, may consult with the Department of Developmental Disabilities, the State Department of Health Care Services, and the Department of Rehabilitation.

(d) In order to receive housing assistance payments for a specific structure pursuant to the provisions of this section, the local agency or nonprofit corporation shall not contract for rental of more than 12 units, or for rental of space for more than 24 persons, in the structure. No individual shall remain in a payment assisted unit for more than 18 months.

SEC. 45. Section 10235.8 of the Insurance Code is amended to read:

10235.8. No policy may be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition, or accident, except as to the following:

- (a) Preexisting conditions or diseases.
- (b) Alcoholism and drug addiction.
- (c) Illness, treatment, or a medical condition arising out of any of the following:
  - (1) War or act of war, whether declared or undeclared.
  - (2) Participation in a felony, riot, or insurrection.
  - (3) Service in the Armed Forces or units auxiliary thereto.
  - (4) Suicide, whether or not the person had mental capacity to control what he or she was doing, attempted suicide, or intentionally self-inflicted injury.
  - (5) Aviation in the capacity of a non-fare-paying passenger.
- (d) Treatment provided in a government facility, unless otherwise required by law, services for which benefits are available under Medicare or other governmental programs (except Medi-Cal or medicaid), state or federal workers' compensation, employer's liability or occupational disease law,

or a motor vehicle no fault law, services provided by a member of the covered person’s immediate family, and services for which no charge is normally made in the absence of insurance.

(e) This section does not prohibit exclusions and limitations by type of provider or territorial limitations.

SEC. 46. Section 4662 of the Labor Code is amended to read:

4662. (a) Any of the following permanent disabilities shall be conclusively presumed to be total in character:

- (1) Loss of both eyes or the sight thereof.
- (2) Loss of both hands or the use thereof.
- (3) An injury resulting in a practically total paralysis.
- (4) An injury to the brain resulting in permanent mental incapacity.

(b) In all other cases, permanent total disability shall be determined in accordance with the fact.

SEC. 47. Section 2672 of the Penal Code is amended to read:

2672. (a) For purposes of this article, “informed consent” means that a person must knowingly and intelligently, without duress or coercion, and clearly and explicitly manifest his consent to the proposed organic therapy to the attending physician.

(b) A person confined shall not be deemed incapable of informed consent solely by virtue of being diagnosed with a mental health disorder.

(c) A person confined shall be deemed incapable of informed consent if the person cannot understand, or knowingly and intelligently act upon, the information specified in Section 2673.

(d) A person confined shall be deemed incapable of informed consent if, for any reason, he or she cannot manifest his or her consent to the attending physician.

SEC. 48. Section 11151 of the Penal Code is amended to read:

11151. Within five days after release of a person convicted of arson from an institution under the jurisdiction of the State Department of State Hospitals, the Director of State Hospitals shall send the notice provided in Section 11150.

SEC. 49. Section 9201 of the Probate Code is amended to read:

9201. (a) Notwithstanding any other statute, if a claim of a public entity arises under a law, act, or code listed in subdivision (b):

(1) The public entity may provide a form to be used for the written notice or request to the public entity required by this chapter. Where appropriate, the form may require the decedent’s social security number, if known.

(2) The claim is barred only after written notice or request to the public entity and expiration of the period provided in the applicable section. If no written notice or request is made, the claim is enforceable by the remedies, and is barred at the time, otherwise provided in the law, act, or code.

(b)

Law, Act, or Code

Applicable Section

Sales and Use Tax Law (commencing with Section 6001 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Motor Vehicle Fuel License Tax Law (commencing with Section 7301 of the Revenue and Taxation Code)	Section 7675.1 of the Revenue and Taxation Code
Use Fuel Tax Law (commencing with Section 8601 of the Revenue and Taxation Code)	Section 8782.1 of the Revenue and Taxation Code
Administration of Franchise and Income Tax Law (commencing with Section 18401 of the Revenue and Taxation Code)	Section 19517 of the Revenue and Taxation Code
Cigarette Tax Law (commencing with Section 30001 of the Revenue and Taxation Code)	Section 30207.1 of the Revenue and Taxation Code
Alcoholic Beverage Tax Law (commencing with Section 32001 of the Revenue and Taxation Code)	Section 32272.1 of the Revenue and Taxation Code
Unemployment Insurance Code	Section 1090 of the Unemployment Insurance Code
State Hospitals (commencing with Section 7200 of the Welfare and Institutions Code)	Section 7277.1 of the Welfare and Institutions Code
Medi-Cal Act (commencing with Section 14000 of the Welfare and Institutions Code)	Section 9202 of the Probate Code
Waxman-Duffy Prepaid Health Plan Act (commencing with Section 14200 of the Welfare and Institutions Code)	Section 9202 of the Probate Code

SEC. 50. Section 19201 of the Probate Code is amended to read:

19201. (a) Notwithstanding any other statute, if a claim of a public entity arises under a law, act, or code listed in subdivision (b):

(1) The public entity may provide a form to be used for the written notice or request to the public entity required by this chapter. Where appropriate, the form may require the decedent’s social security number, if known.

(2) The claim is barred only after written notice or request to the public entity and expiration of the period provided in the applicable section. If no written notice or request is made, the claim is enforceable by the remedies, and is barred at the time, otherwise provided in the law, act, or code.

(b)

Law, Act, or Code	Applicable Section
Sales and Use Tax Law (commencing with Section 6001 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Motor Vehicle Fuel License Tax Law (commencing with Section 7301 of the Revenue and Taxation Code)	Section 7675.1 of the Revenue and Taxation Code
Use Fuel Tax Law (commencing with Section 8601 of the Revenue and Taxation Code)	Section 8782.1 of the Revenue and Taxation Code
Administration of Franchise and Income Tax Law (commencing with Section 18401 of the Revenue and Taxation Code)	Section 19517 of the Revenue and Taxation Code
Cigarette Tax Law (commencing with Section 30001 of the Revenue and Taxation Code)	Section 30207.1 of the Revenue and Taxation Code
Alcoholic Beverage Tax Law (commencing with Section 32001 of the Revenue and Taxation Code)	Section 32272.1 of the Revenue and Taxation Code

Unemployment Insurance Code	Section 1090 of the Unemployment Insurance Code
State Hospitals (commencing with Section 7200 of the Welfare and Institutions Code)	Section 7277.1 of the Welfare and Institutions Code
Medi-Cal Act (commencing with Section 14000 of the Welfare and Institutions Code)	Section 9202 of the Probate Code
Waxman-Duffy Prepaid Health Plan Act (commencing with Section 14200 of the Welfare and Institutions Code)	Section 9202 of the Probate Code

SEC. 51. Section 734 of the Public Utilities Code is amended to read:

734. When complaint has been made to the commission concerning a rate for a product or commodity furnished or service performed by a public utility, and the commission has found, after investigation, that the public utility has charged an unreasonable, excessive, or discriminatory amount therefor in violation of any of the provisions of this part, the commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection if no discrimination will result from that reparation. No order for the payment of reparation upon the ground of unreasonableness shall be made by the commission when the rate in question has, by formal finding, been declared by the commission to be reasonable, and no assignment of a reparation claim shall be recognized by the commission except assignments by operation of law as in cases of death, lack of legal capacity to make decisions, bankruptcy, receivership, or order of court.

SEC. 52. Section 5301 of the Streets and Highways Code is amended to read:

5301. If a lot or parcel of land belonging to the United States, or to the state, or to a county, city, public agent, mandatory of the government, school board, educational, penal or reform institution, or facility for the housing of persons with developmental or intellectual disabilities or mental health disorders is in use in the performance of a public function, and is included within the district to be assessed to pay the costs and expenses thereof, the legislative body may, in the resolution of intention, declare that the lots or parcels of land, or any of them, shall be omitted from the assessment thereafter to be made to cover the costs and expenses of the work.

SEC. 53. Section 18014 of the Streets and Highways Code is amended to read:

18014. If lots or parcels of land belonging to the United States, to this state, or to a county, city, public agency, mandatory of the government, school board, educational, penal or reform institution, or facility for housing

of persons with developmental or intellectual disabilities or mental health disorders are in use in the performance of a public function and are included within the assessment district, the city council may, in the resolution of intention, declare that the lots or parcels of land, or any of them, shall be omitted from the assessment thereafter to be made to cover the costs and expenses of the improvement. If the lots or parcels of land, or any of them, are omitted from the assessment by the resolution, the total cost and expense of all work done shall be assessed on the remaining lots lying within the limits of the assessment district, without regard to the omitted lots or parcels of land. If the city declares in the resolution of intention that the lots or parcels of land, or any of them, shall be included in the assessment, or if no declaration is made respecting the lots or parcels of land, or any of them, the city shall be liable for the sums thereafter assessed against the lots or parcels of land, and the sums shall be payable by the city out of the general fund unless the city council, in its resolution of intention, designates another fund. However, sums that may be assessed against those lots or parcels of land shall not be payable by the city when those sums are paid by the owner of or the governing body controlling the lots or parcels of land.

SEC. 54. Section 18395 of the Streets and Highways Code is amended to read:

18395. Whenever a lot or parcel of land belonging to the United States or to the state, or to a county, city, public agent, mandatory of the government, school board, educational, penal or reform institution, or facility for the housing of persons with developmental or intellectual disabilities or mental health disorders and being in use in the performance of a public function abuts the public streets in which street lighting systems are located and are to be improved under the proceedings, the city council may, by resolution adopted prior to the levy of an installment assessment, declare that the lots or parcels of land or any of them shall be omitted from the installment assessments thereafter to be levied to cover the costs and expenses of the improvement.

SEC. 55. Section 35466 of the Streets and Highways Code is amended to read:

35466. A lot or parcel of land in a public use belonging to the state or to a county, city, district, or other public corporation, public agent, mandatory of the government, school board, educational, penal or reform institution, or facility for the housing of persons with developmental or intellectual disabilities or mental health disorders in use in the performance of a public function and lying within the district is not subject to assessment unless the consent of its governing body to the assessment is filed with the legislative body at or prior to the confirmation of the assessment. If that consent is filed, the land is subject to assessment in the same manner as other land within the district.

SEC. 56. Section 26306 of the Water Code is amended to read:

26306. The provisions of Sections 26304 and 26305 shall not apply in the following cases:

(a) Where the assessments for which the property was sold were paid before the sale.

(b) Where the property was redeemed after the sale.

(c) Where the land was not subject to assessment at the time it was assessed.

(d) Where no assessments were due on the land at the time of the sale.

(e) Where fraud is established.

(f) Where the deed is void on its face.

(g) Where the owner of the land was, at the time of the sale, a minor or a person who lacked mental capacity, in which case the earliest time that the statute of limitations begins to run is when the disability is removed.

(h) In an action described in Section 26304 or 26305 based on the alleged ineffectiveness of the collector's deed to convey the title to minerals or to oil, gas or other hydrocarbon substances which was held by one or more persons other than the owner of the land on the date of the assessment for which the property was sold.

SEC. 57. Section 1752.6 of the Welfare and Institutions Code is amended to read:

1752.6. The director may, with the approval of the Director of General Services, enter into contracts with colleges, universities, and other organizations for the purposes of research in the field of delinquency and crime prevention and of training special workers, including teachers, institution employees, probation and parole officers, social workers and others engaged, whether as volunteers or for compensation, and whether part time or full time, in the fields of education, recreation, mental health, and treatment and prevention of delinquency.

SEC. 58. Section 1756 of the Welfare and Institutions Code is amended to read:

1756. Notwithstanding any other law, if, in the opinion of the Chief Deputy Secretary for the Division of Juvenile Justice, the rehabilitation of a person with a mental health disorder or a developmental disability who is confined in a state correctional school may be expedited by treatment at one of the state hospitals under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services, the Chief Deputy Secretary for the Division of Juvenile Justice shall certify that fact to the director of the appropriate department who may authorize receipt of the person at one of the hospitals for care and treatment. Upon notification from the director that the person will no longer benefit from further care and treatment in the state hospital, the Chief Deputy Secretary for the Division of Juvenile Justice shall immediately send for, take, and receive the person back into a state correctional school. A person placed in a state hospital under this section who is committed to the authority shall be released from the hospital upon termination of his or her commitment unless a petition for detention of that person is filed under the provisions of Part 1 (commencing with Section 5000) of Division 5.

SEC. 59. Section 4011 of the Welfare and Institutions Code is amended to read:

4011. (a) The State Department of Health Care Services has jurisdiction over the execution of the laws relating to the care, custody, and treatment of persons with mental health disorders only to the extent and in the manner provided in this code. The State Department of State Hospitals shall have jurisdiction over the execution of the laws relating to care and treatment of persons with mental health disorders under the custody of the State Department of State Hospitals.

(b) As used in this division, “establishment” and “institution” include every hospital, boarding home, or other place receiving or caring for persons with mental health disorders.

SEC. 60. Section 4016 of the Welfare and Institutions Code is amended to read:

4016. In every place in which a person with a mental health disorder may be involuntarily held, the persons confined therein shall be permitted access to, and examination or inspection of, copies of this code.

SEC. 61. Section 4021 of the Welfare and Institutions Code is amended to read:

4021. (a) When the department has reason to believe that a person held in custody as having a mental health disorder is wrongfully deprived of his or her liberty, or is cruelly or negligently treated, or that inadequate provision is made for the skillful medical care, proper supervision, and safekeeping of that person, it may ascertain the facts. It may issue compulsory process for the attendance of witnesses and the production of papers, and may exercise the powers conferred upon a referee in a superior court. It may make such orders for the care and treatment of such person as it deems proper.

(b) Whenever the department undertakes an investigation into the general management and administration of an establishment or place of detention for persons with mental health disorders, it may give notice of that investigation to the Attorney General, who shall appear personally or by deputy, to examine witnesses in attendance and to assist the department in the exercise of the powers conferred upon it in this code.

SEC. 62. Section 4022 of the Welfare and Institutions Code is amended to read:

4022. When complaint is made to the department regarding the officers or management of a hospital or institution for persons with mental health disorders, or regarding the management of a person detained therein or regarding a person held in custody as having a mental health disorder, the department may, before making an examination regarding the complaint, require it to be made in writing and sworn to before an officer authorized to administer oaths. On receipt of such a complaint, sworn to if so required, the department shall direct that a copy of the complaint be served on the authorities of the hospital or institution or the person against whom complaint is made, together with notice of the time and place of the investigation, as the department directs.

SEC. 63. Section 4042 of the Welfare and Institutions Code is amended to read:

4042. The State Department of State Hospitals shall cooperate and coordinate with other state and local agencies engaged in research and evaluation studies. Effort shall be made to coordinate with research, evaluation, and demonstration efforts of local mental health programs, state hospitals serving persons with mental health disorders, the Department of Rehabilitation, the State Department of Developmental Services, the State Department of Health Care Services, universities, and other special projects conducted or contracted for by the State Department of State Hospitals.

SEC. 64. Section 4080 of the Welfare and Institutions Code is amended to read:

4080. (a) Psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, shall only be licensed by the State Department of Health Care Services subsequent to application by counties, county contract providers, or other organizations pursuant to this part.

(b) (1) For counties or county contract providers that choose to apply, the local mental health director shall first present to the local mental health advisory board for its review an explanation of the need for the facility and a description of the services to be provided. The local mental health director shall then submit to the governing body the explanation and description. The governing body, upon its approval, may submit the application to the State Department of Health Care Services.

(2) Other organizations that will be applying for licensure and do not intend to use any Bronzan-McCorquodale funds pursuant to Section 5707 shall submit to the local mental health director and the governing body in the county in which the facility is to be located a written and dated proposal of the services to be provided. The local mental health director and governing body shall have 30 days during which to provide advice and recommendations regarding licensure, as they deem appropriate. At any time after the 30-day period, the organizations may then submit their applications, along with the mental health director's and governing body's advice and recommendations, if any, to the State Department of Health Care Services.

(c) The State Fire Marshal and other appropriate state agencies, to the extent required by law, shall cooperate fully with the State Department of Health Care Services to ensure that the State Department of Health Care Services approves or disapproves the licensure applications not later than 90 days after the application submission by a county, county contract provider, or other organization.

(d) Every psychiatric health facility and program for which a license has been issued shall be periodically inspected by a multidisciplinary team appointed or designated by the State Department of Health Care Services. The inspection shall be conducted no less than once every two years and as often as necessary to ensure the quality of care provided. During the inspections the review team shall offer advice and assistance to the psychiatric health facility as it deems appropriate.

(e) (1) The program aspects of a psychiatric health facility that shall be reviewed and may be approved by the State Department of Health Care Services shall include, but not be limited to:

- (A) Activities programs.
  - (B) Administrative policies and procedures.
  - (C) Admissions, including provisions for a mental evaluation.
  - (D) Discharge planning.
  - (E) Health records content.
  - (F) Health records services.
  - (G) Interdisciplinary treatment teams.
  - (H) Nursing services.
  - (I) Patient rights.
  - (J) Pharmaceutical services.
  - (K) Program space requirements.
  - (L) Psychiatrist and clinical psychological services.
  - (M) Rehabilitation services.
  - (N) Restraint and seclusion.
  - (O) Social work services.
  - (P) Space, supplies, and equipment.
  - (Q) Staffing standards.
  - (R) Unusual occurrences.
  - (S) Use of outside resources, including agreements with general acute care hospitals.
  - (T) Linguistic access and cultural competence.
  - (U) Structured outpatient services to be provided under special permit.
- (2) The State Department of Health Care Services has the sole authority to grant program flexibility.

(f) Commencing July 1, 2013, the State Department of Health Care Services may adopt regulations regarding psychiatric health facilities that shall include, but not be limited to, all of the following:

(1) Procedures by which the State Department of Health Care Services shall review and may approve the program and facility requesting licensure as a psychiatric health facility as being in compliance with program standards established by the department.

(2) Procedures by which the Director of Health Care Services shall approve, or deny approval of, the program and facility licensed as a psychiatric health facility pursuant to this section.

(3) Provisions for site visits by the State Department of Health Care Services for the purpose of reviewing a facility's compliance with program and facility standards.

(4) Provisions for the State Department of Health Care Services for any administrative proceeding regarding denial, suspension, or revocation of a psychiatric health facility license.

(5) Procedures for the appeal of an administrative finding or action pursuant to paragraph (4) of this subdivision and subdivision (j).

(g) Regulations may be adopted by the State Department of Health Care Services that establish standards for pharmaceutical services in psychiatric

health facilities. Licensed psychiatric health facilities shall be exempt from requirements to obtain a separate pharmacy license or permit.

(h) (1) It is the intent of the Legislature that the State Department of Health Care Services shall license the facility in order to establish innovative and more competitive and specialized acute care services.

(2) The State Department of Health Care Services shall review and may approve the program aspects of public or private facilities, with the exception of those facilities that are federally certified or accredited by a nationally recognized commission that accredits health care facilities, only if the average per diem charges or costs of service provided in the facility is approximately 60 percent of the average per diem charges or costs of similar psychiatric services provided in a general hospital.

(3) (A) When a private facility is accredited by a nationally recognized commission that accredits health care facilities, the State Department of Health Care Services shall review and may approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(B) When a private facility serves county patients, the State Department of Health Care Services shall review and may approve the program aspects only if the facility is federally certified by the federal Centers for Medicare and Medicaid Services and serves a population mix that includes a proportion of Medi-Cal patients sufficient to project an overall cost savings to the county, and the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(4) When a public facility is federally certified by the federal Centers for Medicare and Medicaid Services and serves a population mix that includes a proportion of Medi-Cal patients sufficient to project an overall program cost savings with certification, the State Department of Health Care Services shall approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(5) (A) The State Department of Health Care Services may set a lower rate for private or public facilities than that required by paragraph (3) or (4), if so required by the federal Centers for Medicare and Medicaid Services as a condition for the receipt of federal matching funds.

(B) This section does not impose any obligation on any private facility to contract with a county for the provision of services to Medi-Cal beneficiaries, and any contract for that purpose is subject to the agreement of the participating facility.

(6) (A) In using the guidelines specified in this subdivision, the State Department of Health Care Services shall take into account local conditions affecting the costs or charges.

(B) In those psychiatric health facilities authorized by special permit to offer structured outpatient services not exceeding 10 daytime hours, the following limits on per diem rates shall apply:

(i) The per diem charge for patients in both a morning and an afternoon program on the same day shall not exceed 60 percent of the facility's authorized per diem charge for inpatient services.

(ii) The per diem charge for patients in either a morning or afternoon program shall not exceed 30 percent of the facility's authorized per diem charge for inpatient services.

(i) The licensing fees charged for these facilities shall be credited to the State Department of Health Care Services for its costs incurred in the review of psychiatric health facility programs, in connection with the licensing of these facilities.

(j) (1) The State Department of Health Care Services shall establish a system for the imposition of prompt and effective civil sanctions against psychiatric health facilities in violation of the laws and regulations of this state pertaining to psychiatric health facilities. If the State Department of Health Care Services determines that there is or has been a failure, in a substantial manner, on the part of a psychiatric health facility to comply with the laws and regulations, the Director of Health Care Services may impose the following sanctions:

(A) Cease and desist orders.

(B) Monetary sanctions, which may be imposed in addition to the penalties of suspension, revocation, or cease and desist orders. The amount of monetary sanctions permitted to be imposed pursuant to this subparagraph shall not be less than fifty dollars (\$50) nor more than one hundred dollars (\$100) multiplied by the licensed bed capacity, per day, for each violation. However, the monetary sanction shall not exceed three thousand dollars (\$3,000) per day. A facility that is assessed a monetary sanction under this subparagraph, and that repeats the deficiency, may, in accordance with the regulations adopted pursuant to this subdivision, be subject to immediate suspension of its license until the deficiency is corrected.

(2) The State Department of Health Care Services may adopt regulations necessary to implement this subdivision and paragraph (5) of subdivision (f) in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(k) Proposed changes in the standards or regulations affecting health facilities that serve persons with mental health disorders shall be effected only with the review and coordination of the California Health and Human Services Agency.

(l) In psychiatric health facilities where the clinical director is not a physician, a psychiatrist, or if one is temporarily not available, a physician shall be designated who shall direct those medical treatments and services that can only be provided by, or under the direction of, a physician.

SEC. 65. Section 4109.5 of the Welfare and Institutions Code is amended to read:

4109.5. (a) Whenever the department proposes the closure of a state hospital, it shall submit as part of the Governor's proposed budget to the Legislature a complete program, to be developed jointly by the State Department of State Hospitals and the county in which the state hospital is located, for absorbing as many of the staff of the hospital into the local mental health programs as may be needed by the county. Those programs shall include a redefinition of occupational positions, if necessary, and a recognition by the counties of licensed psychiatric technicians for treatment of persons with developmental disabilities, persons with mental health disorders, drug abusers, and alcoholics.

(b) The Director of State Hospitals shall submit all plans for the closure of state hospitals as a report with the department's budget. This report shall include all of the following:

- (1) The land and buildings affected.
- (2) The number of patients affected.
- (3) Alternative plans for patients presently in the facilities.
- (4) Alternative plans for patients who would have been served by the facility assuming it was not closed.
- (5) A joint statement of the impact of the closure by the department and affected local treatment programs.

(c) These plans may be submitted to the Legislature until April 1 of each budget year. Plans submitted after that date shall not be considered until the fiscal year following that in which it was submitted.

(d) The plan shall not be placed into effect unless the Legislature specifically approves the plan.

(e) This section shall not apply to the proposed closure of a developmental center.

SEC. 66. Section 4119 of the Welfare and Institutions Code is amended to read:

4119. (a) The State Department of State Hospitals shall investigate and examine all nonresident persons residing in a state hospital and shall cause these persons, when found to be nonresidents as defined in this chapter, to be promptly and humanely returned under proper supervision to the states in which they have legal residence. The department may defer that action by reason of a patient's medical condition.

(b) Prior to returning the judicially committed nonresident to his or her proper state of residency, the department shall do either of the following:

(1) Obtain the written consent of the prosecuting attorney of the committing county, the judicially committed nonresident person, and the attorney of record for the judicially committed nonresident person.

(2) In the department's discretion request a hearing in the superior court of the committing county requesting a judicial determination of the proposed transfer, notify the court that the state of residence has agreed to the transfer, and file the department's recommendation with a report explaining the reasons for its recommendation.

(c) The court shall give notice of the hearing to the prosecuting attorney, the judicially committed nonresident person, the attorney of record for the

judicially committed nonresident person, and the department, no less than 30 days before the hearing. At the hearing, the prosecuting attorney and the judicially committed nonresident person may present evidence bearing on the intended transfer. After considering all evidence presented, the court shall determine whether the intended transfer is in the best interest of, and for the proper protection of, the nonresident person and the public. The court shall use the same procedures and standard of proof as used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code.

(d) For the purpose of facilitating the prompt and humane return of these persons, the State Department of State Hospitals may enter into reciprocal agreements with the proper boards, commissions, or officers of other states or political subdivision thereof for the mutual exchange or return of persons residing in any state hospital in one state whose legal residence is in the other, and it may in these reciprocal agreements vary the period of residence as defined in this chapter to meet the requirements or laws of the other states.

(e) The department may give written permission for the return of a resident of this state confined in a public institution in another state, corresponding to a state hospital of this state. When a resident is returned to this state pursuant to this chapter, he or she may be admitted as a voluntary patient to an institution of the department as designated by the Director of State Hospitals. If he or she has a mental health disorder and is a danger to himself or herself or others, or he or she is gravely disabled, he or she may be detained and given care and services in accordance with the provisions of Part 1 (commencing with Section 5000) of Division 5.

SEC. 67. Section 4120 of the Welfare and Institutions Code is amended to read:

4120. (a) Except as otherwise provided in this section, in determining residence for purposes of being entitled to hospitalization in this state and for purposes of returning patients to the states of their residence, an adult person who has lived continuously in this state for a period of one year and who has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state shall be deemed to be a resident of this state. Except as otherwise provided in this section a minor is entitled to hospitalization in this state if the parent or guardian or conservator having custody of the minor has lived continuously in this state for a period of one year and has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state. The parent, guardian, or conservator shall be deemed a resident of this state for the purposes of this section, and the minor shall be eligible for hospitalization in this state as a person with a mental health disorder. The eligibility of the minor for hospitalization in this state ceases when the parent, guardian, or conservator ceases to be a resident of this state and the minor shall be transferred to the state of residence of the parent, guardian, or conservator in accordance with the applicable provisions of this code. Time spent in a public institution for the care of persons with developmental disabilities or mental health disorders,

or on leave of absence therefrom, shall not be counted in determining the matter of residence in this or another state.

(b) Residence acquired in this or in another state shall not be lost by reason of military service in the Armed Forces of the United States.

SEC. 68. Section 4121 of the Welfare and Institutions Code is amended to read:

4121. (a) All expenses incurred in returning these persons to other states shall be paid by this state, the person, or his or her relatives, but the expense of returning residents of this state shall be borne by the states making the returns.

(b) The cost and expense incurred in effecting the transportation of these nonresident persons to the states in which they have residence shall be advanced from the funds appropriated for that purpose, or, if necessary, from the money appropriated for the care of persons who are delinquent or have mental health disorders.

SEC. 69. Section 4132 of the Welfare and Institutions Code is amended to read:

4132. (a) It is hereby declared that the provisions of this code reflect the concern of the Legislature that persons with mental health disorders are to be regarded as patients to be provided care and treatment and not as inmates of institutions for the purposes of secluding them from the rest of the public.

(b) Whenever any provision of this code heretofore or hereafter enacted uses the term “inmate,” it shall be construed to mean “patient.”

SEC. 70. Section 4136 of the Welfare and Institutions Code is amended to read:

4136. (a) Each patient in a state hospital who has resided in the state hospital for a period of at least 30 days shall be paid an amount of aid for his or her personal and incidental needs that, when added to his or her income, equals twelve dollars and fifty cents (\$12.50) per month. If a patient elects to do so, a patient may save all or any portion of his or her monthly amount of aid provided for personal and incidental needs for expenditure in subsequent months.

(b) Each indigent patient in a state hospital shall be allotted sufficient materials for one letter each week, including postage in an amount not to exceed the cost of one stamp for first-class mail for a one-ounce letter, at no cost to the patient.

(c) Each newly admitted patient, for the first 30 days after his or her initial admission, shall be allotted sufficient materials for two letters each week, including postage for first-class mail for up to two one-ounce letters per week. The hospital administrator shall ensure that additional writing materials and postage are available for purchase by patients at the store or canteen on hospital grounds.

(d) For purposes of this section, “indigent patient” means a patient whose income is no more than twelve dollars and fifty cents (\$12.50) per month.

SEC. 71. Section 4200 of the Welfare and Institutions Code is amended to read:

4200. (a) Each state hospital under the jurisdiction of the State Department of State Hospitals shall have a hospital advisory board of eight members appointed by the Governor from a list of nominations submitted to him or her by the boards of supervisors of counties within each hospital's designated service area. If a state hospital provides services for both persons with mental health disorders and persons with developmental disabilities, there shall be a separate advisory board for the program provided to persons with mental health disorders and a separate board for the program provided to persons with developmental disabilities. To the extent feasible, an advisory board serving a hospital for persons with mental health disorders shall consist of one member who has been a patient in a state hospital and two members shall be the parents, spouse, siblings, or adult children of persons who are or have been patients in a state hospital, three representatives of different professional disciplines selected from primary user counties for patients under Part 1 (commencing with Section 5000) of Division 5, and two representatives of the general public who have demonstrated an interest in services to people with mental health disorders.

(b) Of the members first appointed after the operative date of the amendments made to this section during the 1975–76 legislative session, one shall be appointed for a term of two years, and one for three years. Thereafter, each appointment shall be for the term of three years, except that an appointment to fill a vacancy shall be for the unexpired term only. No person shall be appointed to serve more than a maximum of two terms as a member of the board.

(c) Notwithstanding any provision of this section, members serving on the hospital advisory board on the operative date of the amendments made to this section during the 1987–88 legislative session, may continue to serve on the board until the expiration of their term. The Legislature intends that changes in the composition of the board required by these amendments apply to future vacancies on the board.

SEC. 72. Section 4202.5 of the Welfare and Institutions Code is amended to read:

4202.5. (a) The chairman of a hospital advisory board advising a hospital for persons with mental health disorders shall meet annually with the hospital director, the community mental health directors, and the chairmen of the mental health advisory boards representing counties within the hospital's designated service area.

(b) The chairmen shall be allowed necessary expenses incurred in attending these meetings.

(c) It is the intent of the Legislature that the department assist the development of annual regional meetings required by this section.

SEC. 73. Section 4240 of the Welfare and Institutions Code is amended to read:

4240. The Legislature finds and declares all of the following:

(a) The symptoms and behaviors of persons with serious mental health disorders may cause severe disruption of normal family relationships.

(b) Families are often the principal caregivers, housing providers, and case managers for family members with serious mental health disorders.

(c) Families of persons with serious mental health disorders more often than not have little or no legal authority over their adult family members with mental health disorders who are sometimes difficult to manage. Consequently, they need advice, skills, emotional support, and guidance to cope with the stressful burden of caregiving in order to be effective and helpful.

(d) Involved families are of inestimable value to the publicly funded and professionally operated state and county mental health system and programs emphasizing self-help can be the best way to assist families in maintaining the cohesion of family life while caring for and assisting a family member with a mental health disorder.

(e) Since the state's mental health resources are limited and are increasingly being directed on a priority basis toward provision of services to persons with serious mental health disorders, informed and active families helping one another can effectively extend and amplify the value of state mental health dollars.

SEC. 74. Section 4241 of the Welfare and Institutions Code is amended to read:

4241. (a) It is the intent of the Legislature, by this chapter, to support an organized program of self-help in which families exchange information, advice, and emotional support to enable them to maintain and strengthen family life and secure or provide more effective treatment, care, and rehabilitation for family members with mental health disorders.

(b) It is further the intent of the Legislature to utilize an existing organized statewide network of families, who have family members with mental health disorders, as a means of delivering the services designated in this chapter.

SEC. 75. Section 4243 of the Welfare and Institutions Code is amended to read:

4243. (a) All funds appropriated for the purposes of this chapter shall be used to contract with an organization to establish a statewide network of families who have family members with mental health disorders for the purpose of providing information, advice, support, and other assistance to these families.

(b) A request for proposal shall be issued seeking applicants who are capable of supplying the services specified in Section 4244. The respondent organizations shall demonstrate that they:

(1) Focus their activities exclusively on persons with serious mental health disorders.

(2) Have experience in successfully working with state agencies, including, but not limited to, the State Department of State Hospitals.

(3) Have the ability to reach and involve the target population as active members.

(4) Have proven experience providing structured self-help services that benefit the target population.

(5) Have experience holding statewide and local conferences to educate families and professionals regarding the needs of persons with mental health disorders.

(6) Have the financial and organizational structure and experience to manage the funds provided under the proposed contract.

SEC. 76. Section 4244 of the Welfare and Institutions Code is amended to read:

4244. The Director of State Hospitals shall enter into a contract with the successful bidder to provide services that shall include, but not be necessarily limited to, all of the following:

(a) Production and statewide dissemination of information to families regarding methods of obtaining and evaluating services needed by family members with mental health disorders.

(b) Provision of timely advice, counseling, and other supportive services to assist families in coping with emotional stress and to enable them to care for or otherwise assist family members with mental disorders.

(c) Organizing family self-help services in local communities, accessible to families throughout the state.

(d) Conducting training programs for mental health practitioners and college and university students to inform current and future mental health professionals of the needs of families and methods of utilizing family resources to assist clients with mental health disorders.

SEC. 77. Section 4304 of the Welfare and Institutions Code is amended to read:

4304. The primary purpose of a state hospital is the medical and nursing care of patients with mental health disorders. The efforts and direction of the officers and employees of each state hospital shall be directed to this end.

SEC. 78. Section 4308 of the Welfare and Institutions Code is amended to read:

4308. (a) If a vacancy occurs in a hospital under the jurisdiction of the Director of State Hospitals, he or she shall appoint, as provided in Section 4301, a clinical director, a hospital administrator, a hospital director, and program directors.

(b) A hospital administrator shall be a college graduate, preferably with an advanced degree in hospital, business, or public administration and shall have had experience in this area. He or she shall receive a salary that is competitive with other private and public mental hospital administrators.

(c) A clinical director for a state hospital shall be a physician who has passed, or shall pass, an examination for a license to practice medicine in California and shall be a qualified specialist in a branch of medicine that includes diseases affecting the brain and nervous system. The clinical director for a state hospital shall be well qualified by training or experience to have proven skills in mental hospital program administration.

(d) The hospital director shall be either the hospital administrator or the clinical director. He or she shall be selected based on his or her overall knowledge of the hospital, its programs, and its relationship to its

community, and on his or her demonstrated abilities to administer a large facility.

(e) The standards for the professional qualifications of a program director shall be established by the Director of State Hospitals for each patient program. The director shall not adopt regulations that prohibit a licensed psychiatrist, psychologist, psychiatric technician, or clinical social worker from employment in a patient program in any professional, administrative, or technical position; provided, however, that the program director of a medical-surgical unit shall be a licensed physician.

(f) If the program director is not a physician, a physician shall be available to assume responsibility for all those acts of diagnosis, treatment, or prescribing or ordering of drugs that may only be performed by a licensed physician.

SEC. 79. Section 4320 of the Welfare and Institutions Code is amended to read:

4320. To ensure an adequate supply of licensed psychiatric technicians for state hospitals, the State Department of State Hospitals, to the extent necessary, shall establish in state hospitals a course of study and training equivalent, as determined by the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to the minimum requirements of an accredited program for psychiatric technicians in the state. No unlicensed psychiatric technician trainee shall be permitted to perform the duties of a licensed psychiatric technician as provided by Section 4502 of the Business and Professions Code unless the trainee performs the duties pursuant to a plan of supervision approved by the Board of Vocational Nursing and Psychiatric Technicians of the State of California as part of the equivalency trainee program. This section shall not be construed to reduce the effort presently expended by the community college system or private colleges in training psychiatric technicians.

SEC. 80. Section 4410 of the Welfare and Institutions Code is amended to read:

4410. With the approval of the Department of General Services and for use in the furtherance of the work of the State Department of Developmental Services, the director may accept any or all of the following:

- (a) Grants of interest in real property.
- (b) Grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of any department of this state.
- (c) Gifts of money from public agencies or from persons, organizations, or associations interested in scientific, educational, charitable, or mental health fields.

SEC. 81. Section 4417 of the Welfare and Institutions Code is amended to read:

4417. (a) The State Department of Developmental Services may:

- (1) Disseminate educational information relating to the prevention, diagnosis and treatment of persons with intellectual disabilities.

(2) Upon request, advise all public officers, organizations and agencies interested in the developmental disabilities of the people of the state.

(3) Conduct educational and related work that will tend to encourage the development of proper facilities for persons with developmental disabilities throughout the state.

(b) The department may organize, establish, and maintain community mental health clinics for the prevention, early diagnosis, and treatment of intellectual disability. These clinics may be maintained only for persons not requiring institutional care, who voluntarily seek the aid of the clinics. These clinics may be maintained at the locations in the communities of the state designated by the director, or at any institution under the jurisdiction of the department designated by the director.

(c) The department may establish rules and regulations that are necessary to carry out this section. This section does not authorize any form of compulsory medical or physical examination, treatment, or control of any person.

SEC. 82. Section 4440 of the Welfare and Institutions Code is amended to read:

4440. The department has jurisdiction over the following institutions:

Fairview State Hospital.

Frank D. Lanterman State Hospital.

Porterville State Hospital.

Sonoma State Hospital.

SEC. 83. Section 4681.1 of the Welfare and Institutions Code is amended to read:

4681.1. (a) The department shall adopt regulations that specify rates for community care facilities serving persons with developmental disabilities. The implementation of the regulations shall be contingent upon an appropriation in the annual Budget Act for this purpose. These rates shall be calculated on the basis of a cost model designed by the department that ensures that aggregate facility payments support the provision of services to each person in accordance with his or her individual program plan and applicable program requirements. The cost model shall reflect cost elements that shall include, but are not limited to, all of the following:

(1) “Basic living needs” include utilities, furnishings, food, supplies, incidental transportation, housekeeping, personal care items, and other items necessary to ensure a quality environment for persons with developmental disabilities. The amount identified for the basic living needs element of the rate shall be calculated as the average projected cost of these items in an economically and efficiently operated community care facility.

(2) “Direct care” includes salaries, wages, benefits, and other expenses necessary to supervise or support the person’s functioning in the areas of self-care and daily living skills, physical coordination mobility, and behavioral self-control, choice making, and integration. The amount identified for direct care shall be calculated as the average projected cost of providing the level of service required to meet each person’s functional needs in an economically and efficiently operated community care facility.

The direct care portion of the rate shall reflect specific service levels defined by the department on the basis of relative resident need and the individual program plan.

(3) “Special services” include specialized training, treatment, supervision, or other services that a person’s individual program plan requires to be provided by the residential facility in addition to the direct care provided under paragraph (2). The amount identified for special services shall be calculated for each individual based on the additional services specified in the person’s individual program plan and the prevailing rates paid for similar services in the area. The special services portion of the rate shall reflect a negotiated agreement between the facility and the regional center in accordance with Section 4648.

(4) “Indirect costs” include managerial personnel, facility operation, maintenance and repair, other nondirect care, employee benefits, contracts, training, travel, licenses, taxes, interest, insurance, depreciation, and general administrative expenses. The amount identified for indirect costs shall be calculated as the average projected cost for these expenses in an economically and efficiently operated community care facility.

(5) “Property costs” include mortgages, leases, rent, taxes, capital or leasehold improvements, depreciation, and other expenses related to the physical structure. The amount identified for property costs shall be based on the fair rental value of a model facility that is adequately designed, constructed, and maintained to meet the needs of persons with developmental disabilities. The amount identified for property costs shall be calculated as the average projected fair rental value of an economically and efficiently operated community care facility.

(b) The cost model shall take into account factors that include, but are not limited to, all of the following:

(1) Facility size, as defined by the department on the basis of the number of facility beds licensed by the State Department of Social Services and vendorized by the regional center.

(2) Specific geographic areas, as defined by the department on the basis of cost of living and other pertinent economic indicators.

(3) Common levels of direct care, as defined by the department on the basis of services specific to an identifiable group of persons as determined through the individual program plan.

(4) Positive outcomes, as defined by the department on the basis of increased integration, independence, and productivity at the aggregate facility and individual consumer level.

(5) Owner-operated and staff-operated reimbursement, which shall not differ for facilities that are required to comply with the same program requirements.

(c) The rates established for individual community care facilities serving persons with developmental disabilities shall reflect all of the model cost elements and rate development factors described in this section. The cost model design shall include a process for updating the cost model elements that address variables, including, but not limited to, all of the following:

- (1) Economic trends in California.
- (2) New state or federal program requirements.
- (3) Changes in the state or federal minimum wage.
- (4) Increases in fees, taxes, or other business costs.
- (5) Increases in federal supplemental security income/state supplementary program for the aged, blind, and disabled payments.

(d) Rates established for persons with developmental disabilities who are also dually diagnosed with a mental health disorder may be fixed at a higher rate. The department shall work with the State Department of Health Care Services to establish criteria upon which higher rates may be fixed pursuant to this subdivision. The higher rate for persons with developmental disabilities who are also dually diagnosed with a mental health disorder may be paid when requested by the director of the regional center and approved by the Director of Developmental Services.

(e) By January 1, 2001, the department shall prepare proposed regulations to implement the changes outlined in this section. The department may use a private firm to assist in the development of these changes and shall confer with consumers, providers, and other interested parties concerning the proposed regulations. By May 15, 2001, and each year thereafter, the department shall provide the Legislature with annual community care facility rates, including any draft amendments to the regulations as required. By July 1, 2001, and each year thereafter, contingent upon an appropriation in the annual Budget Act for this purpose, the department shall adopt emergency regulations that establish the annual rates for community care facilities serving persons with developmental disabilities for each fiscal year.

(f) During the first year of operation under the revised rate model, individual facilities shall be held harmless for any reduction in aggregate facility payments caused solely by the change in reimbursement methodology.

SEC. 84. Section 5002 of the Welfare and Institutions Code is amended to read:

5002. (a) Persons with mental health disorders and persons impaired by chronic alcoholism may no longer be judicially committed.

(b) Persons with mental health disorders shall receive services pursuant to this part. Persons impaired by chronic alcoholism may receive services pursuant to this part if they elect to do so pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) Persons with epilepsy may no longer be judicially committed.

(d) This part shall not be construed to repeal or modify laws relating to the commitment of mentally disordered sex offenders, persons with an intellectual disability, and mentally disordered criminal offenders, except as specifically provided in Section 4011.6 of the Penal Code, or as specifically provided in other statutes.

SEC. 85. Section 5004 of the Welfare and Institutions Code is amended to read:

5004. Persons with mental health disorders and persons with developmental disabilities shall receive protection from criminal acts equal to that provided any other resident in this state.

SEC. 86. Section 5004.5 of the Welfare and Institutions Code is amended to read:

5004.5. (a) Notwithstanding any other law, a legal guardian, conservator, or other person who reasonably believes a person with a mental health disorder or developmental disability is the victim of a crime may file a report with an appropriate law enforcement agency. The report shall specify the nature of the alleged offense and any pertinent evidence. Notwithstanding any other law, the information in that report shall not be deemed confidential in any manner. No person shall incur any civil or criminal liability as a result of making a report authorized by this section unless it can be shown that a false report was made and the person knew or should have known that the report was false.

(b) Where the district attorney of the county in which the alleged offense occurred finds, based upon the evidence contained in the report and any other evidence obtained through regular investigatory procedures, that a reasonable probability exists that a crime or public offense has been committed and that the person with the mental health disorder or developmental disability is the victim, the district attorney may file a complaint verified on information and belief.

(c) The filing of a report by a legal guardian, conservator, or any other person pursuant to this section shall not constitute evidence that a crime or public offense has been committed and shall not be considered in any manner by the trier of fact.

SEC. 87. Section 5115 of the Welfare and Institutions Code is amended to read:

5115. The Legislature hereby finds and declares:

(a) It is the policy of this state, as declared and established in this section and in the Lanterman Developmental Disabilities Services Act, Division 4.5 (commencing with Section 4500), that persons with mental health disorders or physical disabilities are entitled to live in normal residential surroundings and should not be excluded therefrom because of their disability.

(b) In order to achieve uniform statewide implementation of the policies of this section and those of the Lanterman Developmental Disabilities Services Act, it is necessary to establish the statewide policy that the use of property for the care of six or fewer persons with mental health disorders or other disabilities is a residential use of the property for the purposes of zoning.

SEC. 88. Section 5116 of the Welfare and Institutions Code is amended to read:

5116. (a) Pursuant to the policy stated in Section 5115, a state-authorized, certified, or licensed family care home, foster home, or group home serving six or fewer persons with mental health disorders or other disabilities or dependent and neglected children, shall be considered

a residential use of property for the purposes of zoning if the homes provide care on a 24-hour-a-day basis.

(b) These homes shall be a permitted use in all residential zones, including, but not limited to, residential zones for single-family dwellings.

SEC. 89. Section 5250 of the Welfare and Institutions Code is amended to read:

5250. If a person is detained for 72 hours under the provisions of Article 1 (commencing with Section 5150), or under court order for evaluation pursuant to Article 2 (commencing with Section 5200) or Article 3 (commencing with Section 5225) and has received an evaluation, he or she may be certified for not more than 14 days of intensive treatment related to the mental health disorder or impairment by chronic alcoholism, under the following conditions:

(a) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and has found the person is, as a result of a mental health disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled.

(b) The facility providing intensive treatment is designated by the county to provide intensive treatment, and agrees to admit the person. No facility shall be designated to provide intensive treatment unless it complies with the certification review hearing required by this article. The procedures shall be described in the county Short-Doyle plan as required by Section 5651.3.

(c) The person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis.

(d) (1) Notwithstanding paragraph (1) of subdivision (h) of Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, or shelter.

(2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help.

(3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the certification review officer to publicly find, that no one is willing or able to assist a person with a mental health disorder in providing for the person's basic needs for food, clothing, or shelter.

SEC. 90. Section 5301 of the Welfare and Institutions Code is amended to read:

5301. (a) At any time during the 14-day intensive treatment period the professional person in charge of the licensed health facility, or his or her designee, may ask the public officer required by Section 5114 to present evidence at proceedings under this article to petition the superior court in the county in which the licensed health facility providing treatment is located for an order requiring the person to undergo an additional period of treatment on the grounds set forth in Section 5300. This petition shall summarize the facts that support the contention that the person falls within the standard set

forth in Section 5300. The petition shall be supported by affidavits describing in detail the behavior that indicates that the person falls within the standard set forth in Section 5300.

(b) Copies of the petition for postcertification treatment and the affidavits in support thereof shall be served upon the person named in the petition on the same day as they are filed with the clerk of the superior court.

(c) The petition shall be in the following form:

Petition for Postcertification Treatment of a Dangerous Person

I, \_\_\_\_\_, (the professional person in charge of the \_\_\_\_\_ intensive treatment facility) (the designee of \_\_\_\_\_ the professional person in charge of the \_\_\_\_\_, treatment facility) in which \_\_\_\_\_ has been under treatment pursuant to the certification by \_\_\_\_\_ and \_\_\_\_\_, hereby petition the court for an order requiring \_\_\_\_\_ to undergo an additional period of treatment, not to exceed 180 days, pursuant to the provisions of Article 6 (commencing with Section 5300) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. This petition is based upon my allegation that (a) \_\_\_\_\_ has attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation, and that, by reason of mental health disorder, presents a demonstrated danger of inflicting substantial physical harm upon others, or that (b) \_\_\_\_\_ had attempted or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody, and that he or she presents, as a result of mental health disorder, a demonstrated danger of inflicting substantial physical harm upon others, or that (c) \_\_\_\_\_ had made a serious threat of substantial physical harm upon the person of another within seven days of being taken into custody, that threat having at least in part resulted in his or her being taken into custody, and that he or she presents, as a result of mental health disorder, a demonstrated danger of inflicting substantial physical harm upon others.

My allegation is based upon the following facts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This allegation is supported by the accompanying affidavits signed by \_\_\_\_\_.

Signed \_\_\_\_\_

(d) The courts may receive the affidavits in evidence and may allow the affidavits to be read to the jury and the contents thereof considered in rendering a verdict, unless counsel for the person named in the petition subpoenas the treating professional person. If the treating professional person is subpoenaed to testify, the public officer, pursuant to Section 5114, shall be entitled to a continuance of the hearing or trial.

SEC. 91. Section 5304 of the Welfare and Institutions Code is amended to read:

5304. (a) The court shall remand a person named in the petition for postcertification treatment to the custody of the State Department of State Hospitals or to a licensed health facility designated by the county of residence of that person for a further period of intensive treatment, not to exceed 180 days from the date of court judgment, if the court or jury finds that the person named in the petition for postcertification treatment has done any of the following:

(1) Attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation and treatment, and who, as a result of mental health disorder, presents a demonstrated danger of inflicting substantial physical harm upon others.

(2) Attempted or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody, and who, as a result of mental health disorder, presents a demonstrated danger of inflicting substantial physical harm upon others.

(3) Expressed a serious threat of substantial physical harm upon the person of another within seven days of being taken into custody, that threat having at least in part resulted in his or her being taken into custody, and who presents, as a result of mental health disorder, a demonstrated danger of inflicting substantial physical harm upon others.

(b) The person shall be released from involuntary treatment at the expiration of 180 days unless the public officer, pursuant to Section 5114, files a new petition for postcertification treatment on the grounds that he or she has attempted, inflicted, or made a serious threat of substantial physical harm upon another during his or her period of postcertification treatment, and he or she is a person who by reason of mental health disorder, presents a demonstrated danger of inflicting substantial physical harm upon others. The new petition for postcertification treatment shall be filed in the superior court in which the original petition for postcertification was filed.

(c) The county from which the person was remanded shall bear any transportation costs incurred pursuant to this section.

SEC. 92. Section 5326.5 of the Welfare and Institutions Code is amended to read:

5326.5. (a) For purposes of this chapter, “written informed consent” means that a person knowingly and intelligently, without duress or coercion, clearly and explicitly manifests consent to the proposed therapy to the treating physician and in writing on the standard consent form prescribed in Section 5326.4.

(b) The physician may urge the proposed treatment as the best one, but may not use, in an effort to gain consent, any reward or threat, express or implied, nor any other form of inducement or coercion, including, but not limited to, placing the patient in a more restricted setting, transfer of the patient to another facility, or loss of the patient's hospital privileges. Nothing in this subdivision shall be construed as in conflict with Section 5326.2. No one shall be denied any benefits for refusing treatment.

(c) A person confined shall be deemed incapable of written informed consent if that person cannot understand, or knowingly and intelligently act upon, the information specified in Section 5326.2.

(d) A person confined shall not be deemed incapable of refusal solely by virtue of being diagnosed as having a mental health disorder.

(e) Written informed consent shall be given only after 24 hours have elapsed from the time the information in Section 5326.2 has been given.

SEC. 93. Section 5340 of the Welfare and Institutions Code is amended to read:

5340. It is the intention of the Legislature by enacting this article to provide legal procedures for the custody, evaluation, and treatment of users of controlled substances. The enactment of this article shall not be construed to be evidence that a person subject to its provisions is has a mental health disorder, or evidence that the Legislature considers that those persons have a mental health disorder.

SEC. 94. Section 5350 of the Welfare and Institutions Code is amended to read:

5350. A conservator of the person, of the estate, or of the person and the estate may be appointed for a person who is gravely disabled as a result of a mental health disorder or impairment by chronic alcoholism.

The procedure for establishing, administering, and terminating a conservatorship under this chapter shall be the same as that provided in Division 4 (commencing with Section 1400) of the Probate Code, except as follows:

(a) A conservator may be appointed for a gravely disabled minor.

(b) (1) Appointment of a conservator under this part, including the appointment of a conservator for a person who is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, shall be subject to the list of priorities in Section 1812 of the Probate Code unless the officer providing conservatorship investigation recommends otherwise to the superior court.

(2) In appointing a conservator, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the court shall consider the purposes of protection of the public and the treatment of the conservatee. Notwithstanding any other provision of this section, the court shall not appoint the proposed conservator if the court determines that appointment of the proposed conservator will not result in adequate protection of the public.

(c) No conservatorship of the estate pursuant to this chapter shall be established if a conservatorship or guardianship of the estate exists under

the Probate Code. When a gravely disabled person already has a guardian or conservator of the person appointed under the Probate Code, the proceedings under this chapter shall not terminate the prior proceedings but shall be concurrent with and superior thereto. The superior court may appoint the existing guardian or conservator of the person or another person as conservator of the person under this chapter.

(d) (1) The person for whom conservatorship is sought shall have the right to demand a court or jury trial on the issue of whether he or she is gravely disabled. Demand for court or jury trial shall be made within five days following the hearing on the conservatorship petition. If the proposed conservatee demands a court or jury trial before the date of the hearing as provided for in Section 5365, the demand shall constitute a waiver of the hearing.

(2) Court or jury trial shall commence within 10 days of the date of the demand, except that the court shall continue the trial date for a period not to exceed 15 days upon the request of counsel for the proposed conservatee.

(3) This right shall also apply in subsequent proceedings to reestablish conservatorship.

(e) (1) Notwithstanding subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, a person is not “gravely disabled” if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person’s basic personal needs for food, clothing, or shelter.

(2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help.

(3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the court to publicly find, that no one is willing or able to assist a person with a mental health disorder in providing for the person’s basic needs for food, clothing, or shelter.

(4) This subdivision does not apply to a person who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008.

(f) Conservatorship investigation shall be conducted pursuant to this part and shall not be subject to Section 1826 or Chapter 2 (commencing with Section 1850) of Part 3 of Division 4 of the Probate Code.

(g) Notice of proceedings under this chapter shall be given to a guardian or conservator of the person or estate of the proposed conservatee appointed under the Probate Code.

(h) As otherwise provided in this chapter.

SEC. 95. Section 5366 of the Welfare and Institutions Code is repealed.

SEC. 96. Section 5400 of the Welfare and Institutions Code is amended to read:

5400. (a) The Director of Health Care Services shall administer this part and shall adopt rules, regulations, and standards as necessary. In developing rules, regulations, and standards, the Director of Health Care

Services shall consult with the California Mental Health Directors Association, the California Mental Health Planning Council, and the office of the Attorney General. Adoption of these standards, rules, and regulations shall require approval by the California Mental Health Directors Association by majority vote of those present at an official session.

(b) Wherever feasible and appropriate, rules, regulations, and standards adopted under this part shall correspond to comparable rules, regulations, and standards adopted under the Bronzan-McCorquodale Act. These corresponding rules, regulations, and standards shall include qualifications for professional personnel.

(c) Regulations adopted pursuant to this part may provide standards for services for persons with chronic alcoholism that differ from the standards for services for persons with mental health disorders.

SEC. 97. Section 5500 of the Welfare and Institutions Code is amended to read:

5500. As used in this chapter:

(a) “Advocacy” means those activities undertaken on behalf of persons who are receiving or have received mental health services to protect their rights or to secure or upgrade treatment or other services to which they are entitled.

(b) “Mental health client” or “client” means a person who is receiving or has received services from a mental health facility, service, or program and who has personally or through a guardian ad litem, entered into an agreement with a county patients’ rights advocate for the provision of advocacy services.

(c) “Mental health facilities, services, or programs” means a publicly operated or supported mental health facility or program; a private facility or program licensed or operated for health purposes providing services to persons with mental health disorders; and publicly supported agencies providing other than mental health services to clients with mental health disorders.

(d) “Independent of providers of service” means that the advocate has no direct or indirect clinical or administrative responsibility for any recipient of mental health services in any mental health facility, program, or service for which he or she performs advocacy activities.

(e) “County patients’ rights advocate” means an advocate appointed, or whose services are contracted for, by a local mental health director.

SEC. 98. Section 5511 of the Welfare and Institutions Code is amended to read:

5511. The Director of State Hospitals or the executive director of each state hospital may contract with independent persons or agencies to perform patients’ rights advocacy services in state hospitals.

SEC. 99. Section 5585.10 of the Welfare and Institutions Code is amended to read:

5585.10. This part shall be construed to promote the legislative intent and purposes of this part as follows:

(a) To provide prompt evaluation and treatment of minors with mental health disorders, with particular priority given to seriously emotionally disturbed children and adolescents.

(b) To safeguard the rights to due process for minors and their families through judicial review.

(c) To provide individualized treatment, supervision, and placement services for gravely disabled minors.

(d) To prevent severe and long-term mental disabilities among minors through early identification, effective family service interventions, and public education.

SEC. 100. Section 5600 of the Welfare and Institutions Code is amended to read:

5600. (a) This part shall be known and may be cited as the Bronzan-McCorquodale Act. This part is intended to organize and finance community mental health services for persons with mental health disorders in every county through locally administered and locally controlled community mental health programs. It is furthermore intended to better utilize existing resources at both the state and local levels in order to improve the effectiveness of necessary mental health services; to integrate state-operated and community mental health programs into a unified mental health system; to ensure that all mental health professions be appropriately represented and utilized in the mental health programs; to provide a means for participation by local governments in the determination of the need for and the allocation of mental health resources under the jurisdiction of the state; and to provide a means of allocating mental health funds deposited in the Local Revenue Fund equitably among counties according to community needs.

(b) With the exception of those referring to Short-Doyle Medi-Cal services, any other provisions of law referring to the Short-Doyle Act shall be construed as referring to the Bronzan-McCorquodale Act.

SEC. 101. Section 5653 of the Welfare and Institutions Code is amended to read:

5653. (a) Optimum use shall be made of appropriate local public and private organizations, community professional personnel, and state agencies. Optimum use shall also be made of federal, state, county, and private funds that may be available for mental health planning.

(b) In order that maximum utilization be made of federal and other funds made available to the Department of Rehabilitation, the Department of Rehabilitation may serve as a contractual provider under the provisions of a county plan of vocational rehabilitation services for persons with mental health disorders.

SEC. 102. Section 5696 of the Welfare and Institutions Code is amended to read:

5696. Prior to the opening of a regional facility, the board of directors shall develop written admission criteria, approved by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, for those minors who are most at risk of entering the adult criminal justice system as

offenders who have mental health disorders and are at high risk of committing predatory and violent crimes, including, but not limited to, the following requirements:

(a) The minor is at the time of commitment between 12 and 18 years of age, he or she has been adjudged to be a ward of the juvenile court pursuant to Section 602, and his or her custody has been placed under the supervision of a probation officer pursuant to Section 727.

(b) The ward is seriously emotionally disturbed as is evidenced by a diagnosis from the current edition of the Diagnostic and Statistical Manual of Mental Disorders and evidences behavior inappropriate to the ward's age according to expected developmental norms. Additionally, all of the following must be present:

(1) The behavior presents a danger to the community or self and requires intensive supervision and treatment, but the ward is not amenable to other private or public residential treatment programs because his or her behavior requires a secure setting.

(2) The symptomology is both severe and frequent.

(3) The inappropriate behavior is persistent.

SEC. 103. Section 5699 of the Welfare and Institutions Code is amended to read:

5699. (a) The Legislature finds and declares all of the following:

(1) That mental health case management services required for children with serious emotional disturbance are different than these services for clients with mental health disorders described in Chapter 2.5 (commencing with Section 5670).

(2) That mental health case management services for children with serious emotional disturbance are not defined in statute.

(3) That the development of mental health case management for these children would ensure comprehensive appraisal and utilization of the most appropriate resources within the children's environment, as well as the maintenance and strengthening of family ties.

(b) It is the intent of the Legislature to encourage the development of mental health case management services for children with serious emotional disturbance who are separated or at risk of being separated from their families and require mental health treatment, to the extent resources are available. It is further the intent of the Legislature that mental health case management for children with serious emotional disturbance in this state be developed in accordance with the definitions and guidelines contained in this chapter.

SEC. 104. Section 5714 of the Welfare and Institutions Code is amended to read:

5714. To continue county expenditures for legal proceedings involving persons with mental health disorders, the following costs incurred in carrying out Part 1 (commencing with Section 5000) of this division shall not be paid for from funds designated for mental health services.

(a) The costs involved in bringing a person in for 72-hour treatment and evaluation.

(b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary.

(c) The costs of court proceedings in cases of appeal from 14-day intensive treatment.

(d) The cost of legal proceedings in conservatorship, other than the costs of conservatorship investigation as defined by regulations of the State Department of Health Care Services.

(e) The court costs in postcertification proceedings.

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to pay.

SEC. 105. Section 5802 of the Welfare and Institutions Code is amended to read:

5802. (a) The Legislature finds that a mental health system of care for adults and older adults with severe and persistent mental illness is vital for successful management of mental health care in California. Specifically:

(1) A comprehensive and coordinated system of care includes community-based treatment, outreach services and other early intervention strategies, case management, and interagency system components required by adults and older adults with severe and persistent mental illness.

(2) Mentally ill adults and older adults receive service from many different state and county agencies, particularly criminal justice, employment, housing, public welfare, health, and mental health. In a system of care these agencies collaborate in order to deliver integrated and cost-effective programs.

(3) The recovery of persons with severe mental illness and their financial means are important for all levels of government, business, and the community.

(4) System of care services that ensure culturally competent care for persons with severe mental illness in the most appropriate, least restrictive level of care are necessary to achieve the desired performance outcomes.

(5) Mental health service providers need to increase accountability and further develop methods to measure progress towards client outcome goals and cost-effectiveness as required by a system of care.

(b) The Legislature further finds that the adult system of care model, beginning in the 1989–90 fiscal year through the implementation of Chapter 982 of the Statutes of 1988, provides models for adults and older adults with severe mental illness that can meet the performance outcomes required by the Legislature.

(c) The Legislature also finds that the system components established in adult systems of care are of value in providing greater benefit to adults and older adults with severe and persistent mental illness at a lower cost in California.

(d) Therefore, using the guidelines and principles developed under the demonstration projects implemented under the adult system of care legislation in 1989, it is the intent of the Legislature to accomplish the following:

(1) Encourage each county to implement a system of care as described in this legislation for the delivery of mental health services to adults and older adults with serious mental illness.

(2) To promote system of care accountability for performance outcomes that enable adults with severe mental illness to reduce symptoms that impair their ability to live independently, work, maintain community supports, care for their children, stay in good health, not abuse drugs or alcohol, and not commit crimes.

(3) Maintain funding for the existing pilot adult system of care programs that meet contractual goals as models and technical assistance resources for future expansion of system of care programs to other counties as funding becomes available.

(4) Provide funds for counties to establish outreach programs and to provide mental health services and related medications, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and other nonmedical programs necessary to stabilize homeless persons who are mentally ill or persons who are mentally ill and at risk of being homeless, get them off the street, and into treatment and recovery, or to provide access to veterans' services that will also provide for treatment and recovery.

SEC. 106. Section 6000 of the Welfare and Institutions Code is amended to read:

6000. (a) Pursuant to applicable rules and regulations established by the State Department of State Hospitals or the State Department of Developmental Services, the medical director of a state hospital may receive in that hospital, as a boarder and patient, a person who is a suitable person for care and treatment in that hospital, upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(1) In the case of an adult, the application shall be made voluntarily by the person, at a time when he or she is in a condition of mind as to render him or her competent to make it or, if he or she is a conservatee with a conservator of the person or person and estate who was appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 with the right as specified by court order under Section 5358 to place his or her conservatee in a state hospital, by his or her conservator.

(2) In the case of a minor, the application shall be made by his or her parents, or by the parent, guardian, conservator, or other person entitled to his or her custody to a mental hospital as may be designated by the Director of State Hospitals or the Director of Developmental Services to admit minors on voluntary applications. If the minor has a conservator of the person, or the person and the estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5358 to place the conservatee in a state hospital the application for the minor shall be made by his or her conservator.

(b) A person received in a state hospital shall be deemed a voluntary patient.

(c) Upon the admission of a voluntary patient to a state hospital the medical director shall immediately forward to the office of the State Department of State Hospitals or the State Department of Developmental Services the record of the voluntary patient, showing the name, residence, age, sex, place of birth, occupation, civil condition, date of admission of the patient to the hospital, and other information as required by the rules and regulations of the department.

(d) The charges for the care and keeping of a person with a mental health disorder in a state hospital shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7 relating to the charges for the care and keeping of persons with mental health disorders in state hospitals.

(e) A voluntary adult patient may leave the hospital or institution at any time by giving notice of his or her desire to leave to a member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his or her conservator.

(f) A minor who is a voluntary patient may leave the hospital or institution after completing normal hospitalization departure procedures after notice is given to the superintendent or person in charge by the parents, or the parent, guardian, conservator, or other person entitled to the custody of the minor, of their desire to remove him or her from the hospital.

(g) No person received into a state hospital, private mental institution, or county psychiatric hospital as a voluntary patient during his or her minority shall be detained therein after he or she reaches the age of majority. A person, after attaining the age of majority, may apply for admission into the hospital or institution for care and treatment in the manner prescribed in this section for applications by an adult.

(h) The State Department of State Hospitals or the State Department of Developmental Services shall establish rules and regulations necessary to carry out properly the provisions of this section.

(i) Commencing July 1, 2012, the department shall not admit any person to a developmental center pursuant to this section.

SEC. 107. Section 6002 of the Welfare and Institutions Code is amended to read:

6002. (a) The person in charge of a private institution, hospital, or clinic that is conducted for, or includes a department or unit conducted for, the care and treatment of persons who have mental health disorders may receive therein as a voluntary patient a person with a mental health disorder who is a suitable person for care and treatment in the institution, hospital, or clinic who voluntarily makes a written application to the person in charge for admission into the institution, hospital, or clinic and who is, at the time of making the application, mentally competent to make the application. A conservatee, with a conservator of the person, or person and estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5358 to place his

conservatee, may be admitted upon written application by his or her conservator.

(b) After the admission of a voluntary patient to a private institution, hospital, or clinic, the person in charge shall forward to the office of the State Department of State Hospitals a record of the voluntary patient showing all information required by rule by the department.

(c) A voluntary adult patient may leave the hospital, clinic, or institution at any time by giving notice of his or her desire to leave to a member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his or her conservator.

SEC. 108. Section 6002.10 of the Welfare and Institutions Code is amended to read:

6002.10. A facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, to provide inpatient psychiatric treatment, excluding state hospitals and county hospitals, shall establish admission procedures for minors who meet the following criteria:

- (a) The minor is 14 years of age or older, and is under 18 years of age.
- (b) The minor is not legally emancipated.
- (c) The minor is not detained under Sections 5585.50 and 5585.53.
- (d) The minor is not voluntarily committed pursuant to Section 6552.
- (e) The minor has not been declared a dependent of the juvenile court pursuant to Section 300 or a ward of the court pursuant to Section 602.
- (f) The minor's admitting diagnosis or condition is either of the following:
  - (1) A mental health disorder only. Although resistance to treatment may be a product of a mental health disorder, the resistance shall not, in itself, imply the presence of a mental health disorder or constitute evidence that the minor meets the admission criteria. A minor shall not be considered to have a mental health disorder solely for exhibiting behaviors specified under Sections 601 and 602.
  - (2) A mental health disorder and a substance abuse disorder.

SEC. 109. Section 6250 of the Welfare and Institutions Code is amended to read:

6250. (a) As used in this part, "a person subject to judicial commitment" means a person who may be judicially committed under this part as a mentally disordered sex offender pursuant to Article 1 (commencing with Section 6331), a sexually violent predator pursuant to Article 4 (commencing with Section 6600), or a person with intellectual disabilities pursuant to Article 2 (commencing with Section 6500) of Chapter 2.

(b) Nothing in this part shall be held to change or interfere with the provisions of the Penal Code and other laws relating to persons with mental health disorders who are charged with a crime or to persons who are found to be not guilty by reason of insanity.

(c) This part shall be liberally construed so that, as far as possible and consistent with the rights of persons subject to commitment, those persons shall be treated, not as criminals, but as sick persons.

SEC. 110. Section 6254 of the Welfare and Institutions Code is amended to read:

6254. Wherever provision is made in this code for an order of commitment by a superior court, the order of commitment shall be in substantially the following form:

In the Superior Court of the State of California  
For the County of \_\_\_\_\_

The People	}	Order for Care, Hospitalization, or Commitment
For the Best Interest and Protection of		
as a _____,		
and Concerning _____ and _____, Respondents		

The petition dated \_\_\_\_\_, alleging that \_\_\_\_\_, having been presented to this court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, and an order of detention issued thereon by a judge of the superior court of this county, and a return of the said order:

And it further appearing that the provisions of Sections 6250 to 6254, inclusive, of the Welfare and Institutions Code have been complied with;

And it further appearing that Dr. \_\_\_\_\_ and Dr. \_\_\_\_\_, two regularly appointed and qualified medical examiners of this county, have made a personal examination of the alleged \_\_\_\_\_, and have made and signed the certificate of the medical examiners, which certificate is attached hereto and made a part hereof;

Now therefore, after examination and certificate made as aforesaid, the court is satisfied and believes that \_\_\_\_\_ is a \_\_\_\_\_ and is so \_\_\_\_\_.

It is ordered, adjudged, and decreed:

That \_\_\_\_\_ is a \_\_\_\_\_ and that \_he

\* (a) Be cared for and detained in \_\_\_\_\_, a county psychiatric hospital, a community mental health service, or a licensed hospital for the care of persons with mental health disorders until the further order of the court, or

\* (b) Be cared for at \_\_\_\_\_, until the further order of the court, or

\* (c) Be committed to the State Department of State Hospitals for placement in a state hospital, or

\* (d) Be committed to a facility of the Department of Veterans Affairs or other agency of the United States, to wit: \_\_\_\_\_ at \_\_\_\_\_.

It is further ordered and directed that \_\_\_\_\_ of this county, take, convey, and deliver \_\_\_\_\_ to the proper authorities of the hospital or establishment designated herein to be cared for as provided by law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Judge of the Superior Court

\* Strike out when not applicable.

SEC. 111. Section 6551 of the Welfare and Institutions Code is amended to read:

6551. (a) If the court is in doubt as to whether the person has a mental health disorder or an intellectual disability, the court shall order the person to be taken to a facility designated by the county and approved by the State Department of Health Care Services as a facility for 72-hour treatment and evaluation. Thereupon, Article 1 (commencing with Section 5150) of Chapter 2 of Part 1 of Division 5 applies, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the person's mental condition. If the professional person in charge of the facility finds the person is, as a result of a mental health disorder, in need of intensive treatment, the person may be certified for not more than 14 days of involuntary intensive treatment if the conditions set forth in subdivision (c) of Section 5250 and subdivision (b) of Section 5260 are complied with. Thereupon, Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to the person. The person may be detained pursuant to Article 4.5 (commencing with Section 5260), or Article 4.7 (commencing with Section 5270.10), or Article 6 (commencing with Section 5300) of Part 1 of Division 5 if that article applies.

(b) If the professional person in charge of the facility finds that the person has an intellectual disability, the juvenile court may direct the filing in any other court of a petition for the commitment of a minor as an intellectually disabled person to the State Department of Developmental Services for placement in a state hospital. In that case, the juvenile court shall transmit to the court in which the petition is filed a copy of the report of the professional person in charge of the facility in which the minor was placed for observation. The court in which the petition for commitment is filed may accept the report of the professional person in lieu of the appointment, or subpoenaing, and testimony of other expert witnesses appointed by the court, if the laws applicable to the commitment proceedings provide for the appointment by court of medical or other expert witnesses or may consider the report as evidence in addition to the testimony of medical or other expert witnesses.

(c) If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not affected with a mental health disorder requiring intensive treatment or an intellectual disability, the professional person in charge of the facility shall return the minor to the juvenile court on or before the expiration of the 72-hour period and the court shall proceed with the case in accordance with the Juvenile Court Law.

(d) Expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2

(commencing with Section 5600) of Division 5 and shall be reimbursed by the state as are other local expenditures pursuant to that part.

(e) The jurisdiction of the juvenile court over the minor shall be suspended during the time that the minor is subject to the jurisdiction of the court in which the petition for postcertification treatment of an imminently dangerous person or the petition for commitment of an intellectually disabled person is filed or under remand for 90 days for intensive treatment or commitment ordered by the court.

SEC. 112. Section 6825 of the Welfare and Institutions Code is amended to read:

6825. The procedures for handling persons with mental health disorders who are charged with the commission of public offenses are provided for in Section 1026 of the Penal Code and in Chapter 6 (commencing with Section 1365), Title 10, Part 2 of the Penal Code.

SEC. 113. Section 7100 of the Welfare and Institutions Code is amended to read:

7100. (a) The board of supervisors of each county may maintain in the county hospital or in any other hospital situated within or without the county or in any other psychiatric health facility situated within or without the county, suitable facilities and nonhospital or hospital service for the detention, supervision, care, and treatment of persons who have a mental health disorder or a developmental disability, or who are alleged to be such.

(b) The county may contract with public or private hospitals for those facilities and hospital service when they are not suitably available in an institution, psychiatric facility, or establishment maintained or operated by the county.

(c) The facilities and services for persons who have, or are alleged to have, a mental health disorder shall be subject to the approval of the State Department of Health Care Services, and the facilities and services for persons who have, or are alleged to have, a developmental disability shall be subject to the approval of the State Department of Developmental Services. The professional person having charge and control of the hospital or psychiatric health facility shall allow the department whose approval is required to make investigations thereof as it deems necessary at any time.

(d) Nothing in this chapter means that persons who have a mental health disorder or a developmental disability may not be detained, supervised, cared for, or treated, subject to the right of inquiry or investigation by the department, in their own homes, or the homes of their relatives or friends, or in a licensed establishment.

SEC. 114. Section 7200 of the Welfare and Institutions Code is amended to read:

7200. There are in the state the following state hospitals for the care, treatment, and education of persons with mental health disorders:

(a) Metropolitan State Hospital near the City of Norwalk, Los Angeles County.

(b) Atascadero State Hospital near the City of Atascadero, San Luis Obispo County.

(c) Napa State Hospital near the City of Napa, Napa County.

(d) Patton State Hospital near the City of San Bernardino, San Bernardino County.

(e) Coalinga State Hospital near the City of Coalinga, Fresno County.

SEC. 115. Section 7201 of the Welfare and Institutions Code is amended to read:

7201. All of the institutions under the jurisdiction of the State Department of State Hospitals shall be governed by the uniform rules and regulations of the State Department of State Hospitals and all of the provisions of Part 2 (commencing with Section 4100) of Division 4 of this code on the administration of state institutions serving persons with mental health disorders shall apply to the conduct and management of the state hospitals. All of the institutions under the jurisdiction of the State Department of Developmental Services shall be governed by the uniform rules and regulations of the State Department of Developmental Services and, except as provided in Chapter 4 (commencing with Section 7500) of this division, all of the provisions of Part 2 (commencing with Section 4440) of Division 4.1 of this code on the administration of state institutions serving persons with developmental disabilities shall apply to the conduct and management of the state hospitals for persons with developmental disabilities.

SEC. 116. Section 7226 of the Welfare and Institutions Code is amended to read:

7226. The State Department of State Hospitals may admit to any state hospital, if there is room therein, any soldier or sailor in the service of the United States who has a mental health disorder on terms agreed upon between the department and the properly authorized agents, officers, or representatives of the United States government.

SEC. 117. Section 7227 of the Welfare and Institutions Code is amended to read:

7227. Prisoners who have mental health disorders and who are in the state prisons shall be admitted to the state hospitals in accordance with the provisions of the Penal Code.

SEC. 118. Section 7275 of the Welfare and Institutions Code is amended to read:

7275. (a) The husband, wife, father, mother, or children of a patient in a state hospital, the estates of these persons, and the guardian or conservator and administrator of the estate of the patient shall cause him or her to be properly and suitably cared for and maintained, and shall pay the costs and charges for transportation to a state institution. The husband, wife, father, mother, or children of a patient in a state hospital and the administrators of their estates, and the estate of the person shall be liable for his or her care, support, and maintenance in a state institution of which he or she is a patient. The liability of these persons and estates shall be a joint and several liability, and the liability shall exist whether the person has become a patient of a state institution pursuant to the provisions of this code or pursuant to the provisions of Sections 1026, 1368, 1369, 1370, and 1372 of the Penal Code.

(b) This section does not impose liability for the care of persons with intellectual disabilities in state hospitals.

SEC. 119. Section 7276 of the Welfare and Institutions Code is amended to read:

7276. (a) The charge for the care and treatment of all persons who have mental health disorders at state hospitals for whom there is liability to pay therefor shall be determined pursuant to Section 4025. The Director of State Hospitals may reduce, cancel, or remit the amount to be paid by the estate or the relatives, as the case may be, liable for the care and treatment of any person who is an alcoholic or who has a mental health disorder and who is a patient at a state hospital, on satisfactory proof that the estate or relatives, as the case may be, are unable to pay the cost of that care and treatment or that the amount is uncollectible. Where there has been a payment under this section, and the payment or any part thereof is refunded because of the death, leave of absence, or discharge of a patient of the hospital, that amount shall be paid by the hospital or the State Department of State Hospitals to the person who made the payment upon demand, and in the statement to the Controller the amounts refunded shall be itemized and the aggregate deducted from the amount to be paid into the State Treasury, as provided by law. If a person dies at any time while his or her estate is liable for his or her care and treatment at a state hospital, the claim for the amount due may be presented to the executor or administrator of his or her estate, and paid as a preferred claim, with the same rank in order of preference, as claims for expenses of last illness.

(b) If the Director of State Hospitals delegates to the county the responsibility for determining the ability of a minor child and his or her parents to pay for state hospital services, the requirements of Sections 5710 and 7275.1 and the policies and procedures established and maintained by the director, including those relating to the collection and accounting of revenue, shall be followed by each county to which that responsibility is delegated.

SEC. 120. Section 7277 of the Welfare and Institutions Code is amended to read:

7277. The State Department of State Hospitals shall collect all the costs and charges mentioned in Section 7275, and shall determine, pursuant to Section 7275, and collect the charges for care and treatment rendered persons in community mental health clinics maintained by the department and may take action necessary to effect their collection within or without the state. The Director of State Hospitals may, however, at his or her discretion, refuse to accept payment of charges for the care and treatment in a state hospital of person with a mental health disorder or who has chronic alcoholism and who is eligible for deportation by the federal immigration authorities.

SEC. 121. Section 7278 of the Welfare and Institutions Code is amended to read:

7278. The State Department of State Hospitals shall, following the admission of a patient into a state hospital, cause an investigation to be made to determine the moneys, property, or interest in property, if any, the patient

has, and whether he or she has a duly appointed and acting guardian to protect his or her property and his or her property interests. The department shall also make an investigation to determine whether the patient has any relative or relatives responsible under the provisions of this code for the payment of the costs of transportation and maintenance, and shall ascertain the financial condition of the relative or relatives to determine whether, in each case, the relative or relatives are in fact financially able to pay the charges. All reports in connection with the investigation, together with the findings of the department, shall be records of the department, and may be inspected by interested relatives, their agents, or representatives at any time upon application.

SEC. 122. Section 7280 of the Welfare and Institutions Code is amended to read:

7280. The guardian or conservator of the estate of a person who is confined in a state hospital may, from time to time, pay to the state hospital moneys out of the estate to be used for the future personal needs of the person while in a state hospital and for burial expenses. These sums shall be credited to the patient's personal deposit account, subject to the provision relating to the deposit of funds in the patients' personal deposit fund.

SEC. 123. Section 7283 of the Welfare and Institutions Code is amended to read:

7283. All moneys collected by the State Department of State Hospitals and the State Department of Developmental Services for the cost and charges of transportation of persons to state hospitals shall be remitted by the department to the State Treasury for credit to, and shall become a part of, the current appropriation from the General Fund of the state for the transportation of persons with mental health disorders, correctional school, or other state hospital patients and shall be available for expenditure for those purposes. In lieu of exact calculations of moneys collected for transportation charges the department may determine the amount of collections by the use of those estimates or formula as approved by the Department of Finance.

SEC. 124. Section 7284 of the Welfare and Institutions Code is amended to read:

7284. (a) If a person who lacks legal capacity to make decisions, who has no guardian or conservator of the estate, and who has been admitted or committed to the State Department of State Hospitals for placement in a state hospital, is the owner of any property, the State Department of State Hospitals, acting through its designated officer, may apply to the superior court of the proper county for its appointment as guardian or conservator of the person's estate.

(b) For the purposes of this section, the State Department of State Hospitals is hereby made a corporation and may act as executor, administrator, guardian or conservator of estates, assignee, receiver, depository, or trustee, under appointment of any court or by authority of any law of this state, and may transact business in that capacity in like

manner as an individual, and for this purpose may sue and be sued in any of the courts of this state.

(c) If a person admitted or committed to the State Department of State Hospitals dies, leaving an estate, and having no relatives at the time residing within this state, the State Department of State Hospitals may apply for letters of administration of his or her estate and, in the discretion of the court, letters of administration may be issued to the department. When the State Department of State Hospitals is appointed as guardian, conservator, or administrator, the department shall be appointed as guardian, conservator, or administrator without bond. The officer designated by the department shall be required to give a surety bond in an amount deemed necessary from time to time by the director, but in no event shall the initial bond be less than ten thousand dollars (\$10,000), which bond shall be for the joint benefit of the several estates and the State of California. The State Department of State Hospitals shall receive any reasonable fees for its services as the guardian, conservator, or administrator as the court allows. The fees paid to the State Department of State Hospitals for its services as guardian, conservator, or administrator of the various estates may be used as a trust account from which may be drawn expenses for filing fees, bond premiums, court costs, and other expenses required in the administration of the various estates. Whenever the balance remaining in the trust fund account shall exceed a sum deemed necessary by the department for the payment of expenses, the excess shall be paid quarterly by the department into the State Treasury to the credit of the General Fund.

SEC. 125. Section 7294 of the Welfare and Institutions Code is amended to read:

7294. (a) A person who has been committed as a delinquent with a mental health disorder may be paroled or granted a leave of absence by the medical superintendent of the institution wherein the person is confined whenever the medical superintendent is of the opinion that the person has improved to such an extent that he or she is no longer a menace to the health and safety of others or that the person will receive benefit from the parole or leave of absence, and after the medical superintendent and the Director of State Hospitals have certified the opinion to the committing court.

(b) If, within 30 days after the receipt of the certification, the committing court orders the return of the person, the person shall be returned forthwith to await further action of the court. If, within 30 days after the receipt of the certification, the committing court does not order the return of the person to await the further action of the court, the medical superintendent may thereafter parole the person under the terms and conditions specified by the superintendent. A paroled inmate may, at any time during the parole period, be recalled to the institution. The period of parole shall in no case be less than five years, and shall be on the same general rules and conditions as parole of persons with mental health disorders.

(c) When a person has been paroled for five consecutive years, if in the opinion of the medical superintendent and the Director of State Hospitals the person is no longer a menace to the health, person, or property of himself

or herself or of any other person, the medical superintendent, subject to the approval of the Director of State Hospitals, may discharge the person. The committing court shall be furnished with a certified copy of the discharge and shall thereupon dispose of the court case as it deems necessary and proper.

(d) When, in the opinion of the medical superintendent, a person previously committed as a delinquent with a mental health disorder will not benefit by further care and treatment under any facilities of the department and should be returned to the jurisdiction of the court, the superintendent of the institution and the Director of State Hospitals shall certify the opinion to the committing court, including therein a report, diagnosis, and recommendation concerning the person's future care, supervision, or treatment. Upon receipt of the certification, the committing court shall forthwith order the return of the person to the court. The person shall be entitled to a court hearing and to present witnesses in his or her own behalf, to be represented by counsel and to cross-examine any witness who testifies against him or her. After considering all the evidence before it, the court may make a further order or commitment with reference to the person as may be authorized by law.

SEC. 126. Section 7300 of the Welfare and Institutions Code is amended to read:

7300. (a) It shall be the policy of the department to make available to all persons admitted to a state hospital prior to July 1, 1969, and to all persons judicially committed or remanded to its jurisdiction all of the facilities under the control of the department. Whenever, in the opinion of the Director of State Hospitals, it appears that a person admitted prior to July 1, 1969, or that a person judicially committed or remanded to the State Department of State Hospitals for placement in an institution would be benefited by a transfer from that institution to another institution under the department's jurisdiction, the director may cause the transfer of the patient. Preference shall be given in any such transfer to an institution in an adjoining rather than a remote district.

(b) However, before an inmate of a correctional school may be transferred to a state hospital, he or she shall first be returned to a court of competent jurisdiction, and, if subject to commitment, after hearing, may be committed to a state hospital in accordance with law.

(c) The expense of the transfers is chargeable to the state, and the bills for the same, when approved by the Director of State Hospitals, shall be paid by the Treasurer on the warrant of the Controller, out of moneys provided for the care or support of the patients or out of the moneys provided for the support of the department, in the discretion of the department.

SEC. 127. Section 7329 of the Welfare and Institutions Code is amended to read:

7329. (a) When a patient, who is subject to judicial commitment, has escaped from a public mental hospital in a state of the United States other than California and is present in this state, a peace officer, health officer, county physician, or assistant county physician may take the person into

custody within five years after the escape. The person may be admitted and detained in the quarters provided in a county hospital or state hospital upon application of the peace officer, health officer, county physician, or assistant county physician. The application shall be in writing and shall state the identity of the person, the name and place of the institution from which he or she escaped and the approximate date of the escape, and the fact that the person has been apprehended pursuant to this section.

(b) As soon as possible after the person is apprehended, the district attorney of the county in which the person is present shall file a petition in the superior court alleging the facts of the escape, and requesting an immediate hearing on the question of whether the person has escaped from a public mental hospital in another state within five years prior to his or her apprehension. The hearing shall be held within three days after the day on which the person was taken into custody. If the court finds that the person has not escaped from such a hospital within five years prior to his or her apprehension, he or she shall be released immediately.

(c) If the court finds that the person did escape from a public mental hospital in another state within five years prior to his or her apprehension, the superintendent or physician in charge of the quarters provided in the county hospital or state hospital may care for and treat the person, and the district attorney of the county in which the person is present immediately shall present to a judge of the superior court a petition asking that the person be judicially committed to a state hospital in this state. The hearing on the petition shall be held within seven days after the court's determination in the original hearing that the person did escape from a public mental hospital in another state within five years prior to his apprehension. Proceedings shall thereafter be conducted as on a petition for judicial commitment of the particular type of person subject to judicial commitment. If the court finds that the person is subject to judicial commitment it shall order him or her judicially committed to a state hospital in this state; otherwise, it shall order him or her to be released. It shall be the duty of the superintendent of the state hospital to accept custody of the person, if he or she has been determined to be subject to judicial commitment. The State Department of State Hospitals will promptly cause the person to be returned to the institution from which he or she escaped if the authorities in charge of the institution agree to accept him or her. If the authorities refuse to accept the person, the superintendent of the state hospital in which the person is confined shall continue to care for and treat the person in the same manner as any other person judicially committed to the hospital as having a mental health disorder.

SEC. 128. Section 7352 of the Welfare and Institutions Code is amended to read:

7352. (a) The medical director of a state hospital may grant a leave of absence to a judicially committed patient, except as provided in Section 7350, under general conditions prescribed by the State Department of State Hospitals.

(b) The State Department of State Hospitals may continue to render services to patients placed on leave of absence prior to July 1, 1969, to the extent those services are authorized by law in effect immediately preceding July 1, 1969.

SEC. 129. Section 7354 of the Welfare and Institutions Code is amended to read:

7354. (a) A person with a mental health disorder may be granted care in a licensed institution or other suitable licensed or certified facility. The State Department of State Hospitals may pay for that care at a rate not exceeding the average cost of care of patients in the state hospitals, as determined by the Director of State Hospitals. The payments shall be made from funds available to the State Department of State Hospitals for that purpose.

(b) The State Department of State Hospitals may make payments for services for patients who have mental health disorders in private facilities released or discharged from state hospitals on the basis of reimbursement for reasonable cost, using the same standards and rates consistent with those established by the State Department of Health Care Services for similar types of care. The payments shall be made within the limitation of funds appropriated to the State Department of State Hospitals for that purpose.

(c) No payments for care or services of a patient with a mental health disorder shall be made by the State Department of State Hospitals pursuant to this section unless the care or services are requested by the local director of the mental health services of the county of the patient's residence, unless provision for the care or services is made in the county Short-Doyle plan of the county under which the county shall reimburse the department for 10 percent of the amount expended by the department, exclusive of the portion of the cost that is provided by the federal government.

(d) The provision for the 10-percent county share shall be inapplicable with respect to a county with a population of under 100,000 persons that has not elected to participate financially in providing services under Division 5 (commencing with Section 5000) in accordance with Section 5709.5.

SEC. 130. Section 7357 of the Welfare and Institutions Code is amended to read:

7357. The superintendent of a state hospital, on filing his or her written certificate with the Director of State Hospitals, may discharge a patient who, in his or her judgment, has recovered or did not, at time of admission, have a mental health disorder.

SEC. 131. Section 7362 of the Welfare and Institutions Code is amended to read:

7362. (a) The medical superintendent of a state hospital, on filing his or her written certificate with the Director of State Hospitals, may on his or her own motion, and shall on the order of the State Department of State Hospitals, discharge a patient who comes within any of the following descriptions:

- (1) Who is not a proper case for treatment therein.

(2) Who has a developmental disability or a chronic harmless mental health disorder.

(b) The person, when discharged, shall be returned to the county of his or her residence at the expense of the county, and delivered to the sheriff or other appropriate county official to be designated by the board of supervisors, for delivery to the official or agency in that county charged with the responsibility for the person. Should the person be a poor and indigent person, he or she shall be cared for by the county as are other indigent poor.

(c) No person who has been discharged from a state hospital under the provisions of paragraph (2) of subdivision (a) shall be again committed to a state hospital unless he or she is subject to judicial commitment.

SEC. 132. Section 7500 of the Welfare and Institutions Code is amended to read:

7500. There are established in the state the following state hospitals for the care and treatment of persons with developmental disabilities:

- (a) Sonoma State Hospital, in Sonoma County.
- (b) Lanterman State Hospital, in Los Angeles County.
- (c) Porterville State Hospital, in Tulare County.
- (d) Fairview State Hospital, in Orange County.

SEC. 133. Section 7501.5 of the Welfare and Institutions Code is amended to read:

7501.5. (a) The Department of General Services, in cooperation with the State Department of Developmental Services and the State Department of State Hospitals, may lease property within the boundaries of Camarillo State Hospital described in subdivision (c) to Ventura County, which may sublet the property to one or more responsible organizations selected by Ventura County for the purposes of constructing housing or operating residential care services, or both, designed to meet the identified treatment and rehabilitation needs of persons with mental health disorders from Ventura County. The lease between the state and Ventura County shall contain a provision that requires that the lease shall terminate and that full title, possession, and control of the property shall return to the state if permits have not been issued for construction of the housing prior to January 1, 1995. The sublease between Ventura County and the responsible bidder shall contain a provision that requires that permits for construction of the housing be issued prior to January 1, 1995, and shall contain a provision that requires that the sublease shall terminate and full title, possession, and control of the property shall return to the state if permits have not been issued for construction of the housing prior to January 1, 1995.

(b) In selecting a service provider pursuant to subdivision (a), Ventura County shall only consider a sublease with organizations that comply with subdivision (b) of Section 5705 and Section 523 of Title 9 of the California Code of Regulations.

(c) (1) The property consists of a 15 plus acre portion of a 58.5 acre parcel at Camarillo State Hospital that has previously been declared surplus by the State Department of Developmental Services. The acreage is on

Lewis Road at the entrance to Camarillo State Hospital. Specific metes and bounds shall be established for the 15 plus acre parcel prior to the actual lease of the property.

(2) The Department of General Services may enter into a lease at less than fair market value. The department is authorized to lease the parcel for not less than 40 and not more than 99 years.

(d) If there is available space, persons who have mental health disorders from Los Angeles, San Luis Obispo, and Santa Barbara Counties may be eligible for placement at this center if an agreement to that effect is entered into between those counties and Ventura County. The agreement shall specify that Los Angeles, San Luis Obispo, and Santa Barbara Counties shall retain responsibility for monitoring and maintenance of persons with mental health disorders who are placed through those agreements and for payment of costs incurred or services rendered by Ventura County.

SEC. 134. Any section of any act enacted by the Legislature during the 2014 calendar year that takes effect on or before January 1, 2015, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended or repealed by this act shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal of any section by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2014 calendar year and takes effect on or before January 1, 2015, amends, amends and renumbers, adds, repeals and adds, or repeals that section.